

Bill No. CS for CS for SB 1666

Amendment No. ____

<u>Senate</u>	CHAMBER ACTION	<u>House</u>
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11 Senator Mitchell moved the following amendment:

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13 **Senate Amendment (with title amendment)**

14 Delete everything after the enacting clause

15

16 and insert:

17 Section 1. Paragraphs (g) and (j) of subsection (1) of
18 section 39.001, Florida Statutes, 1998 Supplement, are amended
19 to read:

20 39.001 Purposes and intent; personnel standards and
21 screening.--

22 (1) PURPOSES OF CHAPTER.--The purposes of this chapter
23 are:

24 (g) To ensure that the parent or legal custodian
25 ~~guardian~~ from whose custody the child has been taken assists
26 the department to the fullest extent possible in locating
27 relatives suitable to serve as caregivers for the child.

28 (j) To ensure that, when reunification or adoption is
29 not possible, the child will be prepared for alternative
30 permanency goals or placements, to include, but not be limited
31 to, long-term foster care, independent living, custody to a

Bill No. CS for CS for SB 1666

Amendment No. ____

1 relative on a permanent basis with or without legal
2 guardianship, or custody to a foster parent or legal custodian
3 ~~caregiver~~ on a permanent basis with or without legal
4 guardianship.

5 Section 2. Section 39.0014, Florida Statutes, is
6 created to read:

7 39.0014 Responsibilities of public agencies.--All
8 state, county, and local agencies shall cooperate, assist, and
9 provide information to the department as will enable it to
10 fulfill its responsibilities under this chapter.

11 Section 3. Paragraph (b) of subsection (3) and
12 paragraph (a) of subsection (4) of section 39.0015, Florida
13 Statutes, 1998 Supplement, are amended to read:

14 39.0015 Child abuse prevention training in the
15 district school system.--

16 (3) DEFINITIONS.--As used in this section:

17 (b) "Child abuse" means those acts as defined in ss.
18 39.01(1), (2), (30), (44), (46), (53), and (64), 827.04, and
19 984.03(1), (2), and (39).

20 (4) PRIMARY PREVENTION AND TRAINING PROGRAM.--A
21 primary prevention and training program shall include all of
22 the following, as appropriate for the persons being trained:

23 (a) Information provided in a clear and nonthreatening
24 manner, describing the problem of child abuse, sexual abuse,
25 physical abuse, abandonment, neglect, and alcohol and drug
26 abuse, and the possible solutions.

27 Section 4. Section 39.01, Florida Statutes, 1998
28 Supplement, is amended to read:

29 39.01 Definitions.--When used in this chapter, unless
30 the context otherwise requires:

31 (1) "Abandoned" means a situation in which the parent

Bill No. CS for CS for SB 1666

Amendment No. ____

1 or legal custodian of a child or, in the absence of a parent
2 or legal custodian, the caregiver responsible for the child's
3 welfare, while being able, makes no provision for the child's
4 support and makes no effort to communicate with the child,
5 which situation is sufficient to evince a willful rejection of
6 parental obligations. If the efforts of such parent or legal
7 custodian, or caregiver primarily responsible for the child's
8 welfare, to support and communicate with the child are, in the
9 opinion of the court, only marginal efforts that do not evince
10 a settled purpose to assume all parental duties, the court may
11 declare the child to be abandoned. The term "abandoned" does
12 not include a "child in need of services" as defined in
13 chapter 984 or a "family in need of services" as defined in
14 chapter 984. The incarceration of a parent, legal custodian,
15 or caregiver responsible for a child's welfare may support a
16 finding of abandonment.

17 (2) "Abuse" means any willful act or threatened act
18 that results in any physical, mental, or sexual injury or harm
19 that causes or is likely to cause the child's physical,
20 mental, or emotional health to be significantly impaired. ~~For~~
21 ~~the purpose of protective investigations, Abuse of a child~~
22 ~~includes the acts or omissions of the parent, legal custodian,~~
23 ~~caregiver, or other person responsible for the child's~~
24 ~~welfare.~~ Corporal discipline of a child by a parent or, legal
25 custodian, ~~or caregiver~~ for disciplinary purposes does not in
26 itself constitute abuse when it does not result in harm to the
27 child.

28 (3) "Addictions receiving facility" means a substance
29 abuse service provider as defined in chapter 397.

30 (4) "Adjudicatory hearing" means a hearing for the
31 court to determine whether or not the facts support the

Bill No. CS for CS for SB 1666

Amendment No. ____

1 allegations stated in the petition in dependency cases or in
2 termination of parental rights cases.

3 (5) "Adult" means any natural person other than a
4 child.

5 (6) "Adoption" means the act of creating the legal
6 relationship between parent and child where it did not exist,
7 thereby declaring the child to be legally the child of the
8 adoptive parents and their heir at law, and entitled to all
9 the rights and privileges and subject to all the obligations
10 of a child born to such adoptive parents in lawful wedlock.

11 (7) "Alleged juvenile sexual offender" means:

12 (a) A child 12 years of age or younger who is alleged
13 to have committed a violation of chapter 794, chapter 796,
14 chapter 800, s. 827.071, or s. 847.0133; or

15 (b) A child who is alleged to have committed any
16 violation of law or delinquent act involving juvenile sexual
17 abuse. "Juvenile sexual abuse" means any sexual behavior which
18 occurs without consent, without equality, or as a result of
19 coercion. For purposes of this paragraph, the following
20 definitions apply:

21 1. "Coercion" means the exploitation of authority or
22 the use of bribes, threats of force, or intimidation to gain
23 cooperation or compliance.

24 2. "Equality" means two participants operating with
25 the same level of power in a relationship, neither being
26 controlled nor coerced by the other.

27 3. "Consent" means an agreement, including all of the
28 following:

29 a. Understanding what is proposed based on age,
30 maturity, developmental level, functioning, and experience.

31 b. Knowledge of societal standards for what is being

Bill No. CS for CS for SB 1666

Amendment No. ____

1 proposed.

2 c. Awareness of potential consequences and
3 alternatives.

4 d. Assumption that agreement or disagreement will be
5 accepted equally.

6 e. Voluntary decision.

7 f. Mental competence.

8

9 Juvenile sexual offender behavior ranges from noncontact
10 sexual behavior such as making obscene phone calls,
11 exhibitionism, voyeurism, and the showing or taking of lewd
12 photographs to varying degrees of direct sexual contact, such
13 as frottage, fondling, digital penetration, rape, fellatio,
14 sodomy, and various other sexually aggressive acts.

15 (8) "Arbitration" means a process whereby a neutral
16 third person or panel, called an arbitrator or an arbitration
17 panel, considers the facts and arguments presented by the
18 parties and renders a decision which may be binding or
19 nonbinding.

20 (9) "Authorized agent" or "designee" of the department
21 means an employee, volunteer, or other person or agency
22 determined by the state to be eligible for state-funded risk
23 management coverage, that is assigned or designated by the
24 department to perform duties or exercise powers pursuant to
25 this chapter.

26 (10) "Caregiver" means the parent, legal custodian,
27 adult household member, or other person responsible for a
28 child's welfare as defined in subsection (48) ~~(47)~~.

29 (11) "Case plan" or "plan" means a document, as
30 described in s. 39.601, prepared by the department with input
31 from all parties, ~~including parents, guardians ad litem, legal~~

Bill No. CS for CS for SB 1666

Amendment No. ____

1 ~~custodians, caregivers, and the child.~~ The case plan follows
2 the child from the provision of voluntary services through any
3 dependency, foster care, or termination of parental rights
4 proceeding or related activity or process.

5 (12) "Child" or "youth" means any unmarried person
6 under the age of 18 years who has not been emancipated by
7 order of the court ~~and who has been alleged or found to be~~
8 ~~dependent.~~

9 (13) "Child protection team" means a team of
10 professionals established by the Department of Health to
11 receive referrals from the protective investigators and
12 protective supervision staff of the department and to provide
13 specialized and supportive services to the program in
14 processing child abuse, abandonment, or neglect cases. A child
15 protection team shall provide consultation to other programs
16 of the department and other persons regarding child abuse,
17 abandonment, or neglect cases.

18 (14) "Child who is found to be dependent" means a
19 child who, pursuant to this chapter, is found by the court:

20 (a) To have been abandoned, abused, or neglected by
21 the child's parent or parents or legal custodians, ~~or~~
22 ~~caregivers;~~

23 (b) To have been surrendered to the department, the
24 former Department of Health and Rehabilitative Services, or a
25 licensed child-placing agency for purpose of adoption;

26 (c) To have been voluntarily placed with a licensed
27 child-caring agency, a licensed child-placing agency, an adult
28 relative, the department, or the former Department of Health
29 and Rehabilitative Services, after which placement, under the
30 requirements of this chapter, a case plan has expired and the
31 parent or parents or legal custodians, ~~or caregivers~~ have

Bill No. CS for CS for SB 1666

Amendment No. ____

1 failed to substantially comply with the requirements of the
2 plan;

3 (d) To have been voluntarily placed with a licensed
4 child-placing agency for the purposes of subsequent adoption,
5 and a ~~natural~~ parent or parents have signed a consent pursuant
6 to the Florida Rules of Juvenile Procedure;

7 (e) To have no parent or legal custodians capable of
8 ~~providing, legal custodian, or caregiver to provide~~
9 supervision and care; or

10 (f) To be at substantial risk of imminent abuse,
11 abandonment, or neglect by the parent or parents or legal
12 custodians, ~~or caregivers~~.

13 (15) "Child support" means a court-ordered obligation,
14 enforced under chapter 61 and ss. 409.2551-409.2597, for
15 monetary support for the care, maintenance, training, and
16 education of a child.

17 (16) "Circuit" means any of the 20 judicial circuits
18 as set forth in s. 26.021.

19 (17) "Comprehensive assessment" or "assessment" means
20 the gathering of information for the evaluation of a child's
21 and caregiver's physical, psychiatric, psychological or mental
22 health, educational, vocational, and social condition and
23 family environment as they relate to the child's and
24 caregiver's need for rehabilitative and treatment services,
25 including substance abuse treatment services, mental health
26 services, developmental services, literacy services, medical
27 services, family services, and other specialized services, as
28 appropriate.

29 (18) "Court," unless otherwise expressly stated, means
30 the circuit court assigned to exercise jurisdiction under this
31 chapter.

Bill No. CS for CS for SB 1666

Amendment No. ____

1 (19) "Department" means the Department of Children and
2 Family Services.

3 (20) "Diligent efforts by a parent, ~~legal custodian,~~
4 ~~or caregiver~~" means a course of conduct which results in a
5 reduction in risk to the child in the child's home that would
6 allow the child to be safely placed permanently back in the
7 home as set forth in the case plan.

8 (21) "Diligent efforts of social service agency" means
9 reasonable efforts to provide social services or reunification
10 services made by any social service agency that is a party to
11 a case plan.

12 (22) "Diligent search" means the efforts of a social
13 service agency to locate a parent or prospective parent whose
14 identity or location is unknown, initiated as soon as the
15 social service agency is made aware of the existence of such
16 parent, with the search progress reported at each court
17 hearing until the parent is either identified and located or
18 the court excuses further search.

19 (23) "Disposition hearing" means a hearing in which
20 the court determines the most appropriate protections,
21 services, and placement for the child ~~family support services~~
22 ~~in the least restrictive available setting~~ in dependency cases
23 ~~or in termination of parental rights cases.~~

24 (24) "District" means any one of the 15 service
25 districts of the department established pursuant to s. 20.19.

26 (25) "District administrator" means the chief
27 operating officer of each service district of the department
28 as defined in s. 20.19(7) and, where appropriate, includes any
29 district administrator whose service district falls within the
30 boundaries of a judicial circuit.

31 (26) "Expedited termination of parental rights" means

Bill No. CS for CS for SB 1666

Amendment No. ____

1 proceedings wherein a case plan with the goal of reunification
2 is not being offered.

3 (27) "False report" means a report of abuse, neglect,
4 or abandonment of a child to the central abuse hotline, which
5 report is maliciously made for the purpose of:

6 (a) Harassing, embarrassing, or harming another
7 person;

8 (b) Personal financial gain for the reporting person;

9 (c) Acquiring custody of a child; or

10 (d) Personal benefit for the reporting person in any
11 other private dispute involving a child.

12

13 The term "false report" does not include a report of abuse,
14 neglect, or abandonment of a child made in good faith to the
15 central abuse hotline.

16 (28) "Family" means a collective body of persons,
17 consisting of a child and a parent, legal custodian,
18 ~~caregiver~~, or adult relative, in which:

19 (a) The persons reside in the same house or living
20 unit; or

21 (b) The parent, legal custodian, ~~caregiver~~, or adult
22 relative has a legal responsibility by blood, marriage, or
23 court order to support or care for the child.

24 (29) "Foster care" means care provided a child in a
25 foster family or boarding home, group home, agency boarding
26 home, child care institution, or any combination thereof.

27 (30) "Harm" to a child's health or welfare can occur
28 when any person ~~the parent, legal custodian, or caregiver~~
29 ~~responsible for the child's welfare~~:

30 (a) Inflicts or allows to be inflicted upon the child
31 physical, mental, or emotional injury. In determining whether

Bill No. CS for CS for SB 1666

Amendment No. ____

1 harm has occurred, the following factors must be considered in
2 evaluating any physical, mental, or emotional injury to a
3 child: the age of the child; any prior history of injuries to
4 the child; the location of the injury on the body of the
5 child; the multiplicity of the injury; and the type of trauma
6 inflicted. Such injury includes, but is not limited to:

7 1. Willful acts that produce the following specific
8 injuries:

- 9 a. Sprains, dislocations, or cartilage damage.
10 b. Bone or skull fractures.
11 c. Brain or spinal cord damage.
12 d. Intracranial hemorrhage or injury to other internal
13 organs.
14 e. Asphyxiation, suffocation, or drowning.
15 f. Injury resulting from the use of a deadly weapon.
16 g. Burns or scalding.
17 h. Cuts, lacerations, punctures, or bites.
18 i. Permanent or temporary disfigurement.
19 j. Permanent or temporary loss or impairment of a body
20 part or function.

21
22 As used in this subparagraph, the term "willful" refers to the
23 intent to perform an action, not to the intent to achieve a
24 result or to cause an injury.

25 2. Purposely giving a child poison, alcohol, drugs, or
26 other substances that substantially affect the child's
27 behavior, motor coordination, or judgment or that result in
28 sickness or internal injury. For the purposes of this
29 subparagraph, the term "drugs" means prescription drugs not
30 prescribed for the child or not administered as prescribed,
31 and controlled substances as outlined in Schedule I or

Bill No. CS for CS for SB 1666

Amendment No. ____

1 Schedule II of s. 893.03.

2 3. Leaving a child without adult supervision or
3 arrangement appropriate for the child's age or mental or
4 physical condition, so that the child is unable to care for
5 the child's own needs or another's basic needs or is unable to
6 exercise good judgment in responding to any kind of physical
7 or emotional crisis.

8 4. Inappropriate or excessively harsh disciplinary
9 action that is likely to result in physical injury, mental
10 injury as defined in this section, or emotional injury. The
11 significance of any injury must be evaluated in light of the
12 following factors: the age of the child; any prior history of
13 injuries to the child; the location of the injury on the body
14 of the child; the multiplicity of the injury; and the type of
15 trauma inflicted. Corporal discipline may be considered
16 excessive or abusive when it results in any of the following
17 or other similar injuries:

- 18 a. Sprains, dislocations, or cartilage damage.
19 b. Bone or skull fractures.
20 c. Brain or spinal cord damage.
21 d. Intracranial hemorrhage or injury to other internal
22 organs.
23 e. Asphyxiation, suffocation, or drowning.
24 f. Injury resulting from the use of a deadly weapon.
25 g. Burns or scalding.
26 h. Cuts, lacerations, punctures, or bites.
27 i. Permanent or temporary disfigurement.
28 j. Permanent or temporary loss or impairment of a body
29 part or function.
30 k. Significant bruises or welts.
31 (b) Commits, or allows to be committed, sexual

Bill No. CS for CS for SB 1666

Amendment No. ____

1 battery, as defined in chapter 794, or lewd or lascivious
2 acts, as defined in chapter 800, against the child.

3 (c) Allows, encourages, or forces the sexual
4 exploitation of a child, which includes allowing, encouraging,
5 or forcing a child to:

6 1. Solicit for or engage in prostitution; or
7 2. Engage in a sexual performance, as defined by
8 chapter 827.

9 (d) Exploits a child, or allows a child to be
10 exploited, as provided in s. 450.151.

11 (e) Abandons the child. Within the context of the
12 definition of "harm," the term "abandons the child" means that
13 the parent or legal custodian of a child or, in the absence of
14 a parent or legal custodian, the person responsible for the
15 child's welfare, while being able, makes no provision for the
16 child's support and makes no effort to communicate with the
17 child, which situation is sufficient to evince a willful
18 rejection of parental obligation. If the efforts of such a
19 parent or legal custodian or person primarily responsible for
20 the child's welfare to support and communicate with the child
21 are only marginal efforts that do not evince a settled purpose
22 to assume all parental duties, the child may be determined to
23 have been abandoned.

24 (f) Neglects the child. Within the context of the
25 definition of "harm," the term "neglects the child" means that
26 the parent or other person responsible for the child's welfare
27 fails to supply the child with adequate food, clothing,
28 shelter, or health care, although financially able to do so or
29 although offered financial or other means to do so. However,
30 a parent or legal custodian, ~~or caregiver~~ who, by reason of
31 the legitimate practice of religious beliefs, does not provide

Bill No. CS for CS for SB 1666

Amendment No. ____

1 specified medical treatment for a child may not be considered
2 abusive or neglectful for that reason alone, but such an
3 exception does not:

4 1. Eliminate the requirement that such a case be
5 reported to the department;

6 2. Prevent the department from investigating such a
7 case; or

8 3. Preclude a court from ordering, when the health of
9 the child requires it, the provision of medical services by a
10 physician, as defined in this section, or treatment by a duly
11 accredited practitioner who relies solely on spiritual means
12 for healing in accordance with the tenets and practices of a
13 well-recognized church or religious organization.

14 (g) Exposes a child to a controlled substance or
15 alcohol. Exposure to a controlled substance or alcohol is
16 established by:

17 1. Use by the mother of a controlled substance or
18 alcohol during pregnancy when the child, at birth, is
19 demonstrably adversely affected by such usage; or

20 2. Continued chronic and severe use of a controlled
21 substance or alcohol by a parent when the child is
22 demonstrably adversely affected by such usage.

23
24 As used in this paragraph, the term "controlled substance"
25 means prescription drugs not prescribed for the parent or not
26 administered as prescribed and controlled substances as
27 outlined in Schedule I or Schedule II of s. 893.03.

28 (h) Uses mechanical devices, unreasonable restraints,
29 or extended periods of isolation to control a child.

30 (i) Engages in violent behavior that demonstrates a
31 wanton disregard for the presence of a child and could

Bill No. CS for CS for SB 1666

Amendment No. ____

1 reasonably result in serious injury to the child.

2 (j) Negligently fails to protect a child in his or her
3 care from inflicted physical, mental, or sexual injury caused
4 by the acts of another.

5 (k) Has allowed a child's sibling to die as a result
6 of abuse, abandonment, or neglect.

7 (31) "Health and human services board" means the body
8 created in each service district of the department pursuant to
9 the provisions of s. 20.19(8).

10 (32) "Institutional child abuse or neglect" means
11 situations of known or suspected child abuse or neglect in
12 which the person allegedly perpetrating the child abuse or
13 neglect is an employee of a private school, public or private
14 day care center, residential home, institution, facility, or
15 agency or any other person at such institution responsible for
16 the child's care.

17 (33) "Judge" means the circuit judge exercising
18 jurisdiction pursuant to this chapter.

19 (34) "Legal custody" means a legal status created by
20 court order or letter of guardianship which vests in a
21 custodian of the person or guardian, whether an agency or an
22 individual, the right to have physical custody of the child
23 and the right and duty to protect, train, and discipline the
24 child and to provide him or her with food, shelter, education,
25 and ordinary medical, dental, psychiatric, and psychological
26 care. The legal custodian is the person or entity in whom the
27 legal right to custody is vested. For purposes of this chapter
28 only, when the phrase "parent or legal custodian" is used, it
29 refers to rights or responsibilities of the parent and, only
30 if there is no living parent with intact parental rights, to
31 the rights or responsibilities of the legal custodian who has

Bill No. CS for CS for SB 1666

Amendment No. ____

1 assumed the role of the parent.

2 (35) "Legal guardianship" means a judicially created
3 relationship between the child and caregiver which is intended
4 to be permanent and self-sustaining and is provided pursuant
5 to the procedures in chapter 744.

6 (36) "Licensed child-caring agency" means a person,
7 society, association, or agency licensed by the department to
8 care for, receive, and board children.

9 (37) "Licensed child-placing agency" means a person,
10 society, association, or institution licensed by the
11 department to care for, receive, or board children and to
12 place children in a licensed child-caring institution or a
13 foster or adoptive home.

14 (38) "Licensed health care professional" means a
15 physician licensed under chapter 458, an osteopathic physician
16 licensed under chapter 459, a nurse licensed under chapter
17 464, a physician assistant licensed under chapter 458 or
18 chapter 459, or a dentist licensed under chapter 466.

19 (39) "Likely to injure oneself" means that, as
20 evidenced by violent or other actively self-destructive
21 behavior, it is more likely than not that within a 24-hour
22 period the child will attempt to commit suicide or inflict
23 serious bodily harm on himself or herself.

24 (40) "Likely to injure others" means that it is more
25 likely than not that within a 24-hour period the child will
26 inflict serious and unjustified bodily harm on another person.

27 (41) "Long-term relative custodian" means an adult
28 relative who is a party to a long-term custodial relationship
29 created by a court order pursuant to this chapter.

30 (42) "Long-term ~~relative~~ custody" or "long-term
31 custodial relationship" means the relationship that a juvenile

Bill No. CS for CS for SB 1666

Amendment No. ____

1 court order creates between a child and an adult relative of
2 the child or other legal custodian ~~caregiver~~ approved by the
3 court when the child cannot be placed in the custody of a
4 ~~natural~~ parent and termination of parental rights is not
5 deemed to be in the best interest of the child. Long-term
6 ~~relative~~ custody confers upon the ~~long-term~~ relative or other
7 legal custodian ~~caregiver~~ the right to physical custody of the
8 child, a right which will not be disturbed by the court except
9 upon request of the legal custodian ~~caregiver~~ or upon a
10 showing that the best interest of the child ~~a material change~~
11 ~~in circumstances~~ necessitates a change of custody for ~~the best~~
12 ~~interest of~~ the child. A ~~long-term~~ relative or other legal
13 custodian who has been designated as a long-term custodian
14 ~~caregiver~~ shall have all of the rights and duties of a ~~natural~~
15 parent, including, but not limited to, the right and duty to
16 protect, train, and discipline the child and to provide the
17 child with food, shelter, and education, and ordinary medical,
18 dental, psychiatric, and psychological care, unless these
19 rights and duties are otherwise enlarged or limited by the
20 court order establishing the long-term custodial relationship.

21 (43) "Mediation" means a process whereby a neutral
22 third person called a mediator acts to encourage and
23 facilitate the resolution of a dispute between two or more
24 parties. It is an informal and nonadversarial process with
25 the objective of helping the disputing parties reach a
26 mutually acceptable and voluntary agreement. The role of the
27 mediator includes, but is not limited to, assisting the
28 parties in identifying issues, fostering joint problem
29 solving, and exploring settlement alternatives.

30 (44) "Mental injury" means an injury to the
31 intellectual or psychological capacity of a child as evidenced

Bill No. CS for CS for SB 1666

Amendment No. ____

1 by a discernible and substantial impairment in the ability to
2 function within the normal range of performance and behavior.

3 (45) "Necessary medical treatment" means care which is
4 necessary within a reasonable degree of medical certainty to
5 prevent the deterioration of a child's condition or to
6 alleviate immediate pain of a child.

7 (46) "Neglect" occurs when ~~the parent or legal~~
8 ~~custodian of a child or, in the absence of a parent or legal~~
9 ~~custodian, the caregiver deprives~~ a child is deprived of, or
10 is allowed ~~allows~~ a child to be deprived of, necessary food,
11 clothing, shelter, or medical treatment or ~~permits~~ a child is
12 permitted to live in an environment when such deprivation or
13 environment causes the child's physical, mental, or emotional
14 health to be significantly impaired or to be in danger of
15 being significantly impaired. The foregoing circumstances
16 shall not be considered neglect if caused primarily by
17 financial inability unless actual services for relief have
18 been offered to and rejected by such person. A parent or,
19 ~~legal custodian, or caregiver~~ legitimately practicing
20 religious beliefs in accordance with a recognized church or
21 religious organization who thereby does not provide specific
22 medical treatment for a child shall not, for that reason
23 alone, be considered a negligent parent or, ~~legal custodian~~
24 ~~or caregiver~~; however, such an exception does not preclude a
25 court from ordering the following services to be provided,
26 when the health of the child so requires:

27 (a) Medical services from a licensed physician,
28 dentist, optometrist, podiatric physician, or other qualified
29 health care provider; or

30 (b) Treatment by a duly accredited practitioner who
31 relies solely on spiritual means for healing in accordance

Bill No. CS for CS for SB 1666

Amendment No. ____

1 with the tenets and practices of a well-recognized church or
2 religious organization.

3
4 ~~For the purpose of protective investigations, Neglect of a~~
5 ~~child includes the acts or omissions of the parent, legal~~
6 ~~custodian, or caregiver.~~

7 ~~(47) "Other person responsible for a child's welfare"~~
8 ~~includes the child's legal guardian, legal custodian, or~~
9 ~~foster parent; an employee of a private school, public or~~
10 ~~private child day care center, residential home, institution,~~
11 ~~facility, or agency; or any other person legally responsible~~
12 ~~for the child's welfare in a residential setting; and also~~
13 ~~includes an adult sitter or relative entrusted with a child's~~
14 ~~care. For the purpose of departmental investigative~~
15 ~~jurisdiction, this definition does not include law enforcement~~
16 ~~officers, or employees of municipal or county detention~~
17 ~~facilities or the Department of Corrections, while acting in~~
18 ~~an official capacity.~~

19 (47)(48) "Next of kin" means an adult relative of a
20 child who is the child's brother, sister, grandparent, aunt,
21 uncle, or first cousin.

22 (48) "Other person responsible for a child's welfare"
23 includes the child's legal guardian, legal custodian, or
24 foster parent; an employee of a private school, public or
25 private child day care center, residential home, institution,
26 facility, or agency; or any other person legally responsible
27 for the child's welfare in a residential setting; and also
28 includes an adult sitter or relative entrusted with a child's
29 care. For the purpose of departmental investigative
30 jurisdiction, this definition does not include law enforcement
31 officers, or employees of municipal or county detention

Bill No. CS for CS for SB 1666

Amendment No. ____

1 facilities or the Department of Corrections, while acting in
2 an official capacity.

3 (49) "Out-of-home" means a placement outside of the
4 home of the parents or a parent.

5 (50)~~(49)~~ "Parent" means a woman who gives birth to a
6 child and a man whose consent to the adoption of the child
7 would be required under s. 63.062(1)~~(b)~~. If a child has been
8 legally adopted, the term "parent" means the adoptive mother
9 or father of the child. The term does not include an
10 individual whose parental relationship to the child has been
11 legally terminated, or an alleged or prospective parent,
12 unless the parental status falls within the terms of s.
13 39.503(1)~~39.4051(1)~~ or s. 63.062(1)~~(b)~~. For purposes of this
14 chapter only, when the phrase "parent or legal custodian" is
15 used, it refers to rights or responsibilities of the parent
16 and, only if there is no living parent with intact parental
17 rights, to the rights or responsibilities of the legal
18 custodian who has assumed the role of the parent.

19 (51)~~(50)~~ "Participant," for purposes of a shelter
20 proceeding, dependency proceeding, or termination of parental
21 rights proceeding, means any person who is not a party but who
22 should receive notice of hearings involving the child,
23 including foster parents or the legal custodian of the child
24 ~~caregivers~~, identified prospective parents, grandparents
25 entitled to priority for adoption consideration under s.
26 63.0425, actual custodians of the child, and any other person
27 whose participation may be in the best interest of the child.
28 Participants may be granted leave by the court to be heard
29 without the necessity of filing a motion to intervene.

30 (52)~~(51)~~ "Party" means the parent or parents legal
31 custodian of the child, the petitioner, the department, the

Bill No. CS for CS for SB 1666

Amendment No. ____

1 guardian ad litem or the representative of the guardian ad
2 litem program when the program has been appointed, and the
3 child. The presence of the child may be excused by order of
4 the court when presence would not be in the child's best
5 interest. Notice to the child may be excused by order of the
6 court when the age, capacity, or other condition of the child
7 is such that the notice would be meaningless or detrimental to
8 the child.

9 (53)~~(52)~~ "Physical injury" means death, permanent or
10 temporary disfigurement, or impairment of any bodily part.

11 (54)~~(53)~~ "Physician" means any licensed physician,
12 dentist, podiatric physician ~~podiatrist~~, or optometrist and
13 includes any intern or resident.

14 (55)~~(54)~~ "Preliminary screening" means the gathering
15 of preliminary information to be used in determining a child's
16 need for further evaluation or assessment or for referral for
17 other substance abuse services through means such as
18 psychosocial interviews; urine and breathalyzer screenings;
19 and reviews of available educational, delinquency, and
20 dependency records of the child.

21 (56)~~(55)~~ "Preventive services" means social services
22 and other supportive and rehabilitative services provided to
23 the parent or legal custodian of the child, ~~the legal~~
24 ~~custodian of the child, or the caregiver of the child~~ and to
25 the child for the purpose of averting the removal of the child
26 from the home or disruption of a family which will or could
27 result in the placement of a child in foster care. Social
28 services and other supportive and rehabilitative services
29 shall promote the child's need for physical, mental, and
30 emotional health and a safe, stable, living environment, shall
31 promote family autonomy, and shall strengthen family life,

Bill No. CS for CS for SB 1666

Amendment No. ____

1 whenever possible.

2 (57)~~(56)~~ "Prospective parent" means a person who
3 claims to be, or has been identified as, a person who may be a
4 mother or a father of a child.

5 (58)~~(57)~~ "Protective investigation" means the
6 acceptance of a report alleging child abuse, abandonment, or
7 neglect, as defined in this chapter, by the central abuse
8 hotline or the acceptance of a report of other dependency by
9 the department; the investigation of each report; the
10 determination of whether action by the court is warranted; the
11 determination of the disposition of each report without court
12 or public agency action when appropriate; and the referral of
13 a child to another public or private agency when appropriate.

14 (59)~~(58)~~ "Protective investigator" means an authorized
15 agent of the department who receives and investigates reports
16 of child abuse, abandonment, or neglect; who, as a result of
17 the investigation, may recommend that a dependency petition be
18 filed for the child; and who performs other duties necessary
19 to carry out the required actions of the protective
20 investigation function.

21 (60)~~(59)~~ "Protective supervision" means a legal status
22 in dependency cases which permits the child to remain safely
23 in his or her own home or other nonlicensed placement under
24 the supervision of an agent of the department and which must
25 be reviewed by the court during the period of supervision.

26 (61)~~(60)~~ "Relative" means a grandparent,
27 great-grandparent, sibling, first cousin, aunt, uncle,
28 great-aunt, great-uncle, niece, or nephew, whether related by
29 the whole or half blood, by affinity, or by adoption. The term
30 does not include a stepparent.

31 (62)~~(61)~~ "Reunification services" means social

Bill No. CS for CS for SB 1666

Amendment No. ____

1 services and other supportive and rehabilitative services
2 provided to the parent of the child, ~~the legal custodian of~~
3 ~~the child, or the caregiver of the child, whichever is~~
4 ~~applicable,~~ to the child, and, where appropriate, to the
5 relative placement, nonrelative placement, or foster parents
6 of the child, for the purpose of enabling a child who has been
7 placed in out-of-home care to safely return to his or her
8 parent family at the earliest possible time. The health and
9 safety of the child shall be the paramount goal of social
10 services and other supportive and rehabilitative services.
11 Such services shall promote the child's need for physical,
12 mental, and emotional health and a safe, stable, living
13 environment, shall promote family autonomy, and shall
14 strengthen family life, whenever possible.

15 (63)~~(62)~~ "Secretary" means the Secretary of Children
16 and Family Services.

17 (64)~~(63)~~ "Sexual abuse of a child" means one or more
18 of the following acts:

19 (a) Any penetration, however slight, of the vagina or
20 anal opening of one person by the penis of another person,
21 whether or not there is the emission of semen.

22 (b) Any sexual contact between the genitals or anal
23 opening of one person and the mouth or tongue of another
24 person.

25 (c) Any intrusion by one person into the genitals or
26 anal opening of another person, including the use of any
27 object for this purpose, except that this does not include any
28 act intended for a valid medical purpose.

29 (d) The intentional touching of the genitals or
30 intimate parts, including the breasts, genital area, groin,
31 inner thighs, and buttocks, or the clothing covering them, of

Bill No. CS for CS for SB 1666

Amendment No. ____

1 either the child or the perpetrator, except that this does not
2 include:

3 1. Any act which may reasonably be construed to be a
4 normal caregiver responsibility, any interaction with, or
5 affection for a child; or

6 2. Any act intended for a valid medical purpose.

7 (e) The intentional masturbation of the perpetrator's
8 genitals in the presence of a child.

9 (f) The intentional exposure of the perpetrator's
10 genitals in the presence of a child, or any other sexual act
11 intentionally perpetrated in the presence of a child, if such
12 exposure or sexual act is for the purpose of sexual arousal or
13 gratification, aggression, degradation, or other similar
14 purpose.

15 (g) The sexual exploitation of a child, which includes
16 allowing, encouraging, or forcing a child to:

17 1. Solicit for or engage in prostitution; or

18 2. Engage in a sexual performance, as defined by
19 chapter 827.

20 ~~(65)(64)~~ "Shelter" means a placement with a relative
21 or a nonrelative, or in a licensed home or facility,~~place~~ for
22 the temporary care of a child who is alleged to be or who has
23 been found to be dependent, pending court disposition before
24 or after adjudication.

25 ~~(66)(65)~~ "Shelter hearing" means a hearing in which
26 the court determines whether probable cause exists to keep a
27 child in shelter status pending further investigation of the
28 case.

29 ~~(67)(66)~~ "Social service agency" means the department,
30 a licensed child-caring agency, or a licensed child-placing
31 agency.

Bill No. CS for CS for SB 1666

Amendment No. ____

1 (68)~~(67)~~ "Substance abuse" means using, without
2 medical reason, any psychoactive or mood-altering drug,
3 including alcohol, in such a manner as to induce impairment
4 resulting in dysfunctional social behavior.

5 (69)~~(68)~~ "Substantial compliance" means that the
6 circumstances which caused the creation of the case plan have
7 been significantly remedied to the extent that the well-being
8 and safety of the child will not be endangered upon the
9 child's remaining with or being returned to the child's
10 parent, ~~legal custodian, or caregiver.~~

11 (70)~~(69)~~ "Taken into custody" means the status of a
12 child immediately when temporary physical control over the
13 child is attained by a person authorized by law, pending the
14 child's release or placement.

15 (71)~~(70)~~ "Temporary legal custody" means the
16 relationship that a juvenile court creates between a child and
17 an adult relative of the child, legal custodian, ~~or caregiver~~
18 ~~approved by the court,~~ or other person approved by the court
19 until a more permanent arrangement is ordered. Temporary legal
20 custody confers upon the custodian the right to have temporary
21 physical custody of the child and the right and duty to
22 protect, train, and discipline the child and to provide the
23 child with food, shelter, and education, and ordinary medical,
24 dental, psychiatric, and psychological care, unless these
25 rights and duties are otherwise enlarged or limited by the
26 court order establishing the temporary legal custody
27 relationship.

28 (72)~~(71)~~ "Victim" means any child who has sustained or
29 is threatened with physical, mental, or emotional injury
30 identified in a report involving child abuse, neglect, or
31 abandonment, or child-on-child sexual abuse.

Bill No. CS for CS for SB 1666

Amendment No. ____

1 Section 5. Subsection (3) of section 39.011, Florida
2 Statutes, 1998 Supplement, is amended to read:

3 39.011 Immunity from liability.--

4 (3) A member or agent of a citizen review panel acting
5 in good faith is not liable for damages as a result of any
6 review or recommendation with regard to a dependency foster
7 ~~care or shelter care~~ matter unless such member or agent
8 exhibits wanton and willful disregard of human rights or
9 safety, or property.

10 Section 6. Section 39.0121, Florida Statutes, 1998
11 Supplement, is amended to read:

12 39.0121 Specific rulemaking authority.--Pursuant to
13 ss. 120.536 and 120.54 ~~the requirements of s. 120.536~~, the
14 department is specifically authorized to adopt rules, ~~amend,~~
15 ~~and repeal administrative rules which implement or interpret~~
16 ~~law or policy, or describe the procedure and practice~~
17 ~~requirements necessary~~ to implement this chapter, including,
18 ~~but not limited to,~~the following:

19 (1) Background screening of department employees and
20 applicants; criminal records checks of prospective foster and
21 adoptive parents; and drug testing of protective
22 investigators.

23 (2) Reporting of child abuse, neglect, and
24 abandonment; reporting of child-on-child sexual abuse; false
25 reporting; child protective investigations; taking a child
26 into protective custody; and shelter procedures.

27 (3) Confidentiality and retention of department
28 records; access to records; and record requests.

29 (4) Department and client trust funds.

30 (5) Requesting of services from child protection teams
31 ~~and services, and eligible cases.~~

Bill No. CS for CS for SB 1666

Amendment No. ____

1 (6) Consent to and provision of medical care and
2 treatment for children in the care of the department.

3 (7) Federal funding requirements and procedures;
4 foster care and adoption subsidies; subsidized independent
5 living; and subsidized child care.

6 (8) Agreements with law enforcement and other state
7 agencies; access to the National Crime Information Center
8 (NCIC); and access to the parent locator service.

9 (9) Licensing, registration, and certification of
10 child day care providers, shelter and foster homes, and
11 residential child-caring and child-placing agencies.

12 (10) The Family Builders Program, the Intensive Crisis
13 Counseling Program, and any other early intervention programs
14 and kinship care assistance programs.

15 (11) Department contracts, pilot programs, and
16 demonstration projects.

17 (12) Legal and casework procedures, including, but not
18 limited to, mediation, diligent search, stipulations,
19 consents, surrenders, and default, with respect to dependency,
20 termination of parental rights, adoption, guardianship, and
21 kinship care proceedings.

22 (13) Legal and casework management of cases involving
23 in-home supervision and out-of-home care, including judicial
24 reviews, administrative reviews, case plans, and any other
25 documentation or procedures required by federal or state law.

26 (14) Injunctions and other protective orders,
27 domestic-violence-related cases, and certification of domestic
28 violence centers.

29 Section 7. Subsections (3), (4), (5), and (7),
30 paragraphs (a) and (c) of subsection (8), and paragraphs (b)
31 and (d) of subsection (9) of section 39.013, Florida Statutes,

Bill No. CS for CS for SB 1666

Amendment No. ____

1 1998 Supplement, are amended to read:

2 39.013 Procedures and jurisdiction; right to
3 counsel.--

4 (3) When a child is under the jurisdiction of the
5 circuit court pursuant to the provisions of this chapter, the
6 ~~juvenile court, as a division of the circuit court assigned to~~
7 handle dependency matters, may exercise the general and
8 equitable jurisdiction over guardianship proceedings pursuant
9 to the provisions of chapter 744, and proceedings for
10 temporary custody of minor children by extended family
11 pursuant to the provisions of chapter 751.

12 (4) The court shall expedite the resolution of the
13 placement issue in cases involving a child who has been
14 removed from the parent family and placed in an out-of-home
15 placement ~~a shelter~~.

16 (5) The court shall expedite the judicial handling of
17 all cases when the child has been removed from the parent
18 family and placed in an out-of-home placement ~~a shelter~~.

19 (7) For any child who remains in the custody ~~or under~~
20 ~~the supervision~~ of the department, the court shall, within the
21 month which constitutes the beginning of the 6-month period
22 before the child's 18th birthday, hold a hearing to review the
23 progress of the child while in the custody ~~or under the~~
24 supervision of the department.

25 (8)(a) At each stage of the proceedings under this
26 chapter, the court shall advise the parents parent, legal
27 custodian, or caregiver of the right to counsel. The court
28 shall appoint counsel for indigent parents persons. The court
29 shall ascertain whether the right to counsel is understood.
30 When right to counsel is waived, the court shall determine
31 whether the waiver is knowing and intelligent. The court shall

Bill No. CS for CS for SB 1666

Amendment No. ____

1 enter its findings in writing with respect to the appointment
2 or waiver of counsel for indigent parents ~~parties~~ or the
3 waiver of counsel by nonindigent parents ~~parties~~.

4 (c)1. No waiver of counsel may be accepted if it
5 appears that the parent, ~~legal custodian, or caregiver~~ is
6 unable to make an intelligent and understanding choice because
7 of mental condition, age, education, experience, the nature or
8 complexity of the case, or other factors.

9 2. A waiver of counsel made in court must be of
10 record.

11 3. If a waiver of counsel is accepted at any hearing
12 or proceeding, the offer of assistance of counsel must be
13 renewed by the court at each subsequent stage of the
14 proceedings at which the parent, ~~legal custodian, or caregiver~~
15 appears without counsel.

16 (9) The time limitations in this chapter do not
17 include:

18 (b) Periods of delay resulting from a continuance
19 granted at the request of the attorney for the department or
20 petitioner, if the continuance is granted:

21 1. Because of an unavailability of evidence material
22 to the case when the attorney for the department or petitioner
23 has exercised due diligence to obtain such evidence and there
24 are substantial grounds to believe that such evidence will be
25 available within 30 days. However, if the department or
26 petitioner is not prepared to present its case within 30 days,
27 the parent ~~or guardian~~ may move for issuance of an order to
28 show cause or the court on its own motion may impose
29 appropriate sanctions, which may include dismissal of the
30 petition.

31 2. To allow the attorney for the department or

Bill No. CS for CS for SB 1666

Amendment No. ____

1 petitioner additional time to prepare the case and additional
2 time is justified because of an exceptional circumstance.

3 (d) Reasonable periods of delay resulting from a
4 continuance granted at the request of the parent or legal
5 custodian of a subject child.

6 Section 8. Subsections (2) and (3) of section 39.0132,
7 Florida Statutes, 1998 Supplement, are amended, and paragraph
8 (e) is added to subsection (6) of that section, to read:

9 39.0132 Oaths, records, and confidential
10 information.--

11 (2) The court shall make and keep records of all cases
12 brought before it pursuant to this chapter and shall preserve
13 the records pertaining to a dependent child until 7 ~~10~~ years
14 after the last entry was made, or until the child is 18 years
15 of age, whichever date is first reached, and may then destroy
16 them, except that records of cases where orders were entered
17 permanently depriving a parent of the custody of a juvenile
18 shall be preserved permanently. The court shall make official
19 records, consisting of all petitions and orders filed in a
20 case arising pursuant to this part and any other pleadings,
21 certificates, proofs of publication, summonses, warrants, and
22 other writs which may be filed therein.

23 (3) The clerk shall keep all court records required by
24 this part separate from other records of the circuit court.
25 All court records required by this part shall not be open to
26 inspection by the public. All records shall be inspected only
27 upon order of the court by persons deemed by the court to have
28 a proper interest therein, except that, subject to the
29 provisions of s. 63.162, a child and the parents, ~~legal~~
30 ~~custodians, or caregivers~~ of the child and their attorneys,
31 guardian ad litem, law enforcement agencies, and the

Bill No. CS for CS for SB 1666

Amendment No. ____

1 department and its designees shall always have the right to
2 inspect and copy any official record pertaining to the child.
3 The court may permit authorized representatives of recognized
4 organizations compiling statistics for proper purposes to
5 inspect and make abstracts from official records, under
6 whatever conditions upon their use and disposition the court
7 may deem proper, and may punish by contempt proceedings any
8 violation of those conditions.

9 (6) No court record of proceedings under this chapter
10 shall be admissible in evidence in any other civil or criminal
11 proceeding, except that:

12 (e) Orders permanently and involuntarily terminating
13 the rights of a parent shall be admissible as evidence in
14 subsequent termination of parental rights proceedings for a
15 sibling of the child for whom parental rights were terminated.

16 Section 9. Subsection (1) of section 39.0134, Florida
17 Statutes, 1998 Supplement, is amended to read:

18 39.0134 Appointed counsel; compensation.--

19 (1) If counsel is entitled to receive compensation for
20 representation pursuant to a court appointment in a dependency
21 proceeding pursuant to this chapter, such compensation shall
22 be established by each county. The county may acquire and
23 enforce a lien upon court-ordered payment of attorney's fees
24 and costs in accordance with s. 984.08.

25 Section 10. Subsection (1) of section 39.201, Florida
26 Statutes, 1998 Supplement, is amended to read:

27 39.201 Mandatory reports of child abuse, abandonment,
28 or neglect; mandatory reports of death; central abuse
29 hotline.--

30 (1) Any person, including, but not limited to, any:

31 (a) Physician, osteopathic physician, medical

Bill No. CS for CS for SB 1666

Amendment No. ____

1 examiner, chiropractic physician, nurse, or hospital personnel
2 engaged in the admission, examination, care, or treatment of
3 persons;

4 (b) Health or mental health professional other than
5 one listed in paragraph (a);

6 (c) Practitioner who relies solely on spiritual means
7 for healing;

8 (d) School teacher or other school official or
9 personnel;

10 (e) Social worker, day care center worker, or other
11 professional child care, foster care, residential, or
12 institutional worker; or

13 (f) Law enforcement officer,

14
15 who knows, or has reasonable cause to suspect, that a child is
16 ~~an~~ abused, abandoned, or neglected by a parent, legal
17 custodian, caregiver, or other person responsible for the
18 child's welfare ~~child~~ shall report such knowledge or suspicion
19 to the department in the manner prescribed in subsection (2).

20 Section 11. Subsection (1) and paragraphs (a), (d),
21 and (i) of subsection (2) of section 39.202, Florida Statutes,
22 1998 Supplement, are amended to read:

23 39.202 Confidentiality of reports and records in cases
24 of child abandonment, abuse, or neglect.--

25 (1) In order to protect the rights of the child and
26 the child's parents or other persons responsible for the
27 child's welfare, all records held by the department concerning
28 reports of child abandonment, abuse, or neglect, including
29 reports made to the central abuse hotline and all records
30 generated as a result of such reports, shall be confidential
31 and exempt from the provisions of s. 119.07(1) and shall not

Bill No. CS for CS for SB 1666

Amendment No. ____

1 be disclosed except as specifically authorized by this
2 chapter. Such exemption from s. 119.07(1) applies to
3 information in the possession of those entities granted access
4 as set forth in this section.

5 (2) Access to such records, excluding the name of the
6 reporter which shall be released only as provided in
7 subsection (4), shall be granted only to the following
8 persons, officials, and agencies:

9 (a) Employees, authorized agents, or contract
10 providers of the department, the Department of Health, or
11 county agencies responsible for carrying out:

12 1. Child or adult protective investigations;7

13 2. Ongoing child or adult protective services;7

14 3. Healthy Start services;7or

15 4. Licensure or approval of adoptive homes, foster
16 homes, or child care facilities, or family day care homes or
17 informal child care providers who receive subsidized child
18 care funding, or other homes used to provide for the care and
19 welfare of children.

20
21 Also, employees or agents of the Department of Juvenile
22 Justice responsible for the provision of services to children,
23 pursuant to chapters 984 and 985.

24 (d) The parent, ~~caregiver~~, or legal custodian of any
25 child who is alleged to have been abused, abandoned, or
26 neglected, and the child, and their attorneys. This access
27 shall be made available no later than 30 days after the
28 department receives the initial report of abuse, neglect, or
29 abandonment. However, any information otherwise made
30 confidential or exempt by law shall not be released pursuant
31 to this paragraph.

Bill No. CS for CS for SB 1666

Amendment No. ____

1 (i) Any person authorized by the department who is
2 engaged in the use of such records or information for bona
3 fide research, statistical, or audit purposes. Such individual
4 or entity shall enter into a privacy and security agreement
5 with the department and shall comply with all laws and rules
6 governing the use of such records and information for research
7 and statistical purposes. Information identifying the subjects
8 of such records or information shall be treated as
9 confidential by the researcher and shall not be released in
10 any form. ~~However, no information identifying the subjects of~~
11 ~~the report shall be made available to the researcher.~~

12 Section 12. Paragraph (a) of subsection (1) of section
13 39.203, Florida Statutes, 1998 Supplement, is amended to read:

14 39.203 Immunity from liability in cases of child
15 abuse, abandonment, or neglect.--

16 (1)(a) Any person, official, or institution
17 participating in good faith in any act authorized or required
18 by this chapter, or reporting in good faith any instance of
19 child abuse, abandonment, or neglect to the department or any
20 law enforcement agency, shall be immune from any civil or
21 criminal liability which might otherwise result by reason of
22 such action.

23 Section 13. Subsection (5) of section 39.206, Florida
24 Statutes, 1998 Supplement, is amended to read:

25 39.206 Administrative fines for false report of abuse,
26 abandonment, or neglect of a child; civil damages.--

27 (5) At the administrative hearing, the department must
28 prove by a preponderance of the evidence that the person filed
29 a false report with the central abuse hotline. The
30 administrative hearing officer ~~court~~ shall advise any person
31 against whom a fine may be imposed of that person's right to

Bill No. CS for CS for SB 1666

Amendment No. ____

1 be represented by counsel at the administrative hearing.

2 Section 14. Subsections (2), (5), (8), (11), (12), and
3 (13), and paragraph (e) of subsection (6), of section 39.301,
4 Florida Statutes, 1998 Supplement, are amended to read:

5 39.301 Initiation of protective investigations.--

6 (2)(a) Upon commencing an investigation under this
7 part, the child protective investigator shall inform any
8 subject of the investigation of the following:

9 1. The names of the investigators and identifying
10 credentials from the department.

11 2. The purpose of the investigation.

12 3. The right to obtain his or her own attorney and
13 ways that the information provided by the subject may be used.

14 4. The possible outcomes and services of the
15 department's response shall be explained to the parent or
16 legal custodian ~~caregiver~~.

17 5. The right of the parent or legal custodian, ~~or~~
18 ~~caregiver~~ to be involved to the fullest extent possible in
19 determining the nature of the allegation and the nature of any
20 identified problem.

21 (b) The department's training program shall ensure
22 that protective investigators know how to fully inform parents
23 or legal custodians, ~~guardians, and caregivers~~ of their rights
24 and options, including opportunities for audio or video
25 recording of investigators' interviews with parents or legal
26 custodians, ~~guardians, caretakers,~~ or children.

27 (5) The person responsible for the investigation shall
28 make a preliminary determination as to whether the report ~~or~~
29 ~~complaint~~ is complete, consulting with the attorney for the
30 department when necessary. In any case in which the person
31 responsible for the investigation finds that the report ~~or~~

Bill No. CS for CS for SB 1666

Amendment No. ____

1 ~~complaint~~ is incomplete, he or she shall return it without
2 delay to the person or agency originating the report ~~or~~
3 ~~complaint~~ or having knowledge of the facts, or to the
4 appropriate law enforcement agency having investigative
5 jurisdiction, and request additional information in order to
6 complete the report ~~or complaint~~; however, the confidentiality
7 of any report filed in accordance with this chapter shall not
8 be violated.

9 ~~(a) If it is determined that the report or complaint~~
10 ~~is complete, after determining that such action would be in~~
11 ~~the best interests of the child, the attorney for the~~
12 ~~department shall file a petition for dependency.~~

13 ~~(a)(b)~~ If it is determined that the report ~~or~~
14 ~~complaint~~ is complete, but the interests of the child and the
15 public will be best served by providing the child care or
16 other treatment voluntarily accepted by the child and the
17 parents, ~~caregivers,~~ or legal custodians, the protective
18 investigator may refer the parent or legal custodian and child
19 for such care or other treatment.

20 (b) If it is determined that the child is in need of
21 the protection and supervision of the court, the department
22 shall file a petition for dependency. A petition for
23 dependency shall be filed in all cases classified by the
24 department as high-risk cases.

25 ~~(c) If the person conducting the investigation refuses~~
26 ~~to request the attorney for the department to file a petition~~
27 ~~for dependency is not being filed by the department, the~~
28 ~~person or agency originating the report complainant shall be~~
29 advised of the right to file a petition pursuant to this part.

30 (6) For each report it receives, the department shall
31 perform an onsite child protective investigation to:

Bill No. CS for CS for SB 1666

Amendment No. ____

1 (e) Based on the information obtained from available
2 sources ~~the caregiver~~, complete the risk assessment instrument
3 within 48 hours after the initial contact and, if needed,
4 develop a case plan.

5 (8) If the department or its agent determines that a
6 child requires immediate or long-term protection through:

7 (a) Medical or other health care; or

8 (b) Homemaker care, day care, protective supervision,
9 or other services to stabilize the home environment, including
10 intensive family preservation services through the Family
11 Builders Program or, the Intensive Crisis Counseling Program,
12 or both, ~~or~~

13 ~~(c) Foster care, shelter care, or other substitute~~
14 ~~care to remove the child from the custody of the parents,~~
15 ~~legal guardians, or caregivers,~~

16
17 such services shall first be offered for voluntary acceptance
18 unless there are high-risk factors that may impact the ability
19 of the parents or, legal custodians ~~guardians, or caregivers~~
20 to exercise judgment. Such factors may include the parents'
21 or, legal custodians' ~~guardians', or caregivers'~~ young age or
22 history of substance abuse or domestic violence. The parents
23 or, legal custodians, ~~or caregivers~~ shall be informed of the
24 right to refuse services, as well as the responsibility of the
25 department to protect the child regardless of the acceptance
26 or refusal of services. If the services are refused and the
27 department deems that the child's need for protection so
28 requires, the department shall take the child into protective
29 custody or petition the court as provided in this chapter.

30 (11) Immediately upon receipt of a report alleging, or
31 immediately upon learning during the course of an

Bill No. CS for CS for SB 1666

Amendment No. ____

1 investigation, that:

2 (a) The immediate safety or well-being of a child is
3 endangered;

4 (b) The family is likely to flee;

5 (c) A child died as a result of abuse, abandonment, or
6 neglect;

7 (d) A child is a victim of aggravated child abuse as
8 defined in s. 827.03; or

9 (e) A child is a victim of sexual battery or of sexual
10 abuse,

11

12 the department shall orally notify the jurisdictionally
13 responsible state attorney, and county sheriff's office or
14 local police department, and, within 3 working days as soon as
15 ~~practicable~~, transmit a full written ~~the~~ report to those
16 agencies. The law enforcement agency shall review the report
17 and determine whether a criminal investigation needs to be
18 conducted and shall assume lead responsibility for all
19 criminal fact-finding activities. A criminal investigation
20 shall be coordinated, whenever possible, with the child
21 protective investigation of the department. Any interested
22 person who has information regarding an offense described in
23 this subsection may forward a statement to the state attorney
24 as to whether prosecution is warranted and appropriate.

25 (12) In a child protective investigation or a criminal
26 investigation, when the initial interview with the child is
27 conducted at school, the department or the law enforcement
28 agency may allow, notwithstanding the provisions of s.
29 39.0132(4), a school ~~instructional~~ staff member who is known
30 by the child to be present during the initial interview if:

31 (a) The department or law enforcement agency believes

Bill No. CS for CS for SB 1666

Amendment No. ____

1 that the school ~~instructional~~ staff member could enhance the
2 success of the interview by his or her presence; and

3 (b) The child requests or consents to the presence of
4 the school ~~instructional~~ staff member at the interview.

5
6 School ~~instructional~~ staff may ~~only~~ be present only when
7 authorized by this subsection. Information received during
8 the interview or from any other source regarding the alleged
9 abuse or neglect of the child shall be confidential and exempt
10 from the provisions of s. 119.07(1), except as otherwise
11 provided by court order. A separate record of the
12 investigation of the abuse, abandonment, or neglect shall not
13 be maintained by the school or school ~~instructional~~ staff
14 member. Violation of this subsection constitutes a misdemeanor
15 of the second degree, punishable as provided in s. 775.082 or
16 s. 775.083.

17 (13) Within 15 days after the completion of the
18 investigation of cases reported to him or her pursuant to this
19 ~~chapter section~~, the state attorney shall report his or her
20 findings to the department and shall include in such report a
21 determination of whether or not prosecution is justified and
22 appropriate in view of the circumstances of the specific case.

23 Section 15. Subsection (1) of section 39.302, Florida
24 Statutes, 1998 Supplement, is amended to read:

25 39.302 Protective investigations of institutional
26 child abuse, abandonment, or neglect.--

27 (1) The department shall conduct a child protective
28 investigation of each report of institutional child abuse,
29 abandonment, or neglect. Upon receipt of a report which
30 alleges that an employee or agent of the department, or any
31 other entity or person covered by s. 39.01(32) or ~~(48)-(47)~~,

Bill No. CS for CS for SB 1666

Amendment No. ____

1 acting in an official capacity, has committed an act of child
2 abuse, abandonment, or neglect, the department shall
3 immediately initiate a child protective investigation and
4 orally notify the appropriate state attorney, law enforcement
5 agency, and licensing agency. These agencies shall
6 immediately conduct a joint investigation, unless independent
7 investigations are more feasible. When a facility is exempt
8 from licensing, the department shall inform the owner or
9 operator of the facility of the report. Each agency
10 conducting a joint investigation shall be entitled to full
11 access to the information gathered by the department in the
12 course of the investigation. In all cases, the department
13 shall make a full written report to the state attorney within
14 3 working days after making the oral report. A criminal
15 investigation shall be coordinated, whenever possible, with
16 the child protective investigation of the department. Any
17 interested person who has information regarding the offenses
18 described in this subsection may forward a statement to the
19 state attorney as to whether prosecution is warranted and
20 appropriate. Within 15 days after the completion of the
21 investigation, the state attorney shall report the findings to
22 the department and shall include in such report a
23 determination of whether or not prosecution is justified and
24 appropriate in view of the circumstances of the specific case.

25 Section 16. Paragraph (b) of subsection (1) of section
26 39.3035, Florida Statutes, 1998 Supplement, is amended to
27 read:

28 39.3035 Child advocacy centers; standards; state
29 funding.--

30 (1) In order to become eligible for a full membership
31 in the Florida Network of Children's Advocacy Centers, Inc., a

Bill No. CS for CS for SB 1666

Amendment No. ____

1 child advocacy center in this state shall:

2 (b) Be a child protection team, or by written
3 agreement incorporate the participation and services of a
4 child protection team,with established community protocols
5 which meet all of the requirements of the National Network of
6 Children's Advocacy Centers, Inc.

7 Section 17. Subsections (1) and (5) of section 39.304,
8 Florida Statutes, 1998 Supplement, are amended to read:

9 39.304 Photographs, medical examinations, X rays, and
10 medical treatment of abused, abandoned, or neglected child.--

11 (1) Any person required to investigate cases of
12 suspected child abuse, abandonment, or neglect may take or
13 cause to be taken photographs of the areas of trauma visible
14 on a child who is the subject of a report. If the areas of
15 trauma visible on a child indicate a need for a medical
16 examination, or if the child verbally complains or otherwise
17 exhibits distress as a result of injury through suspected
18 child abuse, abandonment, or neglect, or is alleged to have
19 been sexually abused, the person required to investigate may
20 cause the child to be referred for diagnosis to a licensed
21 physician or an emergency department in a hospital without the
22 consent of the child's parents, ~~caregiver,~~ or legal custodian.
23 Such examination may be performed by any licensed physician or
24 physician assistant or an advanced registered nurse
25 practitioner licensed pursuant to chapter 464. Any licensed
26 physician, or advanced registered nurse practitioner licensed
27 pursuant to chapter 464, who has reasonable cause to suspect
28 that an injury was the result of child abuse, abandonment, or
29 neglect may authorize a radiological examination to be
30 performed on the child without the consent of the child's
31 parent, ~~caregiver,~~ or legal custodian.

Bill No. CS for CS for SB 1666

Amendment No. ____

1 (5) The county in which the child is a resident shall
2 bear the initial costs of the examination of the allegedly
3 abused, abandoned, or neglected child; however, the parents,
4 ~~caregiver,~~ or legal custodian of the child shall be required
5 to reimburse the county for the costs of such examination,
6 other than an initial forensic physical examination as
7 provided in s. 960.28, and to reimburse the department for the
8 cost of the photographs taken pursuant to this section. A
9 medical provider may not bill a child victim, directly or
10 indirectly, for the cost of an initial forensic physical
11 examination.

12 Section 18. Subsection (1) of section 39.311, Florida
13 Statutes, 1998 Supplement, is amended to read:

14 39.311 Establishment of Family Builders Program.--

15 (1) Any Family Builders Program that is established by
16 the department shall provide family preservation services:

17 (a) To families whose children are at risk of imminent
18 out-of-home placement because they are dependent;~~;~~

19 (b) To reunite families whose children have been
20 removed and placed in foster care;~~;~~and

21 (c) To maintain adoptive families intact who are at
22 risk of fragmentation.

23

24 The Family Builders Program shall provide programs to achieve
25 long-term changes within families that will allow children to
26 remain with their families ~~as an alternative to the more~~
27 ~~expensive and potentially psychologically damaging program of~~
28 ~~out-of-home placement.~~

29 Section 19. Subsections (1), (5), and (10) of section
30 39.312, Florida Statutes, 1998 Supplement, are amended to
31 read:

Bill No. CS for CS for SB 1666

Amendment No. ____

1 39.312 Goals.--The goals of any Family Builders
2 Program shall be to:

3 (1) Ensure the protection of the child's ~~child~~ health
4 and safety while working with the family.

5 (5) Assist and educate parents in ~~Perform~~ household
6 maintenance, budgeting, and purchasing when parents are unable
7 to do so on their own or need temporary relief.

8 (10) Provide such additional reasonable services for
9 the prevention of child abuse, abandonment, and neglect
10 ~~maltreatment and unnecessary foster care~~ as may be needed in
11 order to strengthen a family at risk.

12 Section 20. Section 39.313, Florida Statutes, 1998
13 Supplement, is amended to read:

14 39.313 Contracting of services.--The department may
15 contract for the delivery of Family Builders Program services
16 by professionally qualified persons or local governments when
17 it determines that it is in the child's ~~family's~~ best
18 interest. The service provider or program operator must
19 submit to the department monthly activity reports covering any
20 services rendered. These activity reports must include
21 project evaluation in relation to individual families being
22 served, as well as statistical data concerning families
23 referred for services who are not served due to the
24 unavailability of resources. The costs of program evaluation
25 are an allowable cost consideration in any service contract
26 negotiated in accordance with this section.

27 Section 21. Section 39.395, Florida Statutes, 1998
28 Supplement, is amended to read:

29 39.395 Detaining a child; medical or hospital
30 personnel.--Any person in charge of a hospital or similar
31 institution, or any physician or licensed health care

Bill No. CS for CS for SB 1666

Amendment No. ____

1 professional treating a child may detain that child without
2 the consent of the parents, caregiver, or legal custodian,
3 whether or not additional medical treatment is required, if
4 the circumstances are such, or if the condition of the child
5 is such that returning the child to the care or custody of the
6 parents, caregiver, or legal custodian presents an imminent
7 danger to the child's life or physical or mental health. Any
8 such person detaining a child shall immediately notify the
9 department, whereupon the department shall immediately begin a
10 child protective investigation in accordance with the
11 provisions of this chapter and shall make every reasonable
12 effort to immediately notify the parents, ~~caregiver,~~ or legal
13 custodian that such child has been detained. If the
14 department determines, according to the criteria set forth in
15 this chapter, that the child should be detained longer than 24
16 hours, it shall petition the court through the attorney
17 representing the Department of Children and Family Services as
18 quickly as possible and not to exceed 24 hours, for an order
19 authorizing such custody in the same manner as if the child
20 were placed in a shelter. The department shall attempt to
21 avoid the placement of a child in an institution whenever
22 possible.

23 Section 22. Paragraph (b) of subsection (1), paragraph
24 (a) of subsection (2), and subsection (3) of section 39.401,
25 Florida Statutes, 1998 Supplement, are amended to read:

26 39.401 Taking a child alleged to be dependent into
27 custody; law enforcement officers and authorized agents of the
28 department.--

29 (1) A child may only be taken into custody:

30 (b) By a law enforcement officer, or an authorized
31 agent of the department, if the officer or authorized agent

Bill No. CS for CS for SB 1666

Amendment No. ____

1 has probable cause to support a finding ~~or reasonable grounds~~
 2 ~~for removal and that removal is necessary to protect the~~
 3 ~~child. Reasonable grounds for removal are as follows:~~
 4 1. That the child has been abused, neglected, or
 5 abandoned, or is suffering from or is in imminent danger of
 6 illness or injury as a result of abuse, neglect, or
 7 abandonment;
 8 2. That the parent ~~or, legal custodian, caregiver, or~~
 9 ~~responsible adult relative~~ of the child has materially
 10 violated a condition of placement imposed by the court; or
 11 3. That the child has no parent, legal custodian,
 12 ~~caregiver, or~~ responsible adult relative immediately known and
 13 available to provide supervision and care.
 14 (2) If the law enforcement officer takes the child
 15 into custody, that officer shall:
 16 (a) Release the child to:
 17 1. The parent, ~~caregiver, or~~ legal custodian of the
 18 child;
 19 2. A responsible adult approved by the court when
 20 limited to temporary emergency situations;
 21 3. A responsible adult relative who shall be given
 22 priority consideration over a nonrelative placement when this
 23 is in the best interests of the child; or
 24 4. A responsible adult approved by the department; or
 25
 26 For cases involving allegations of abandonment, abuse, or
 27 neglect, or other dependency cases, within 3 days after such
 28 release or within 3 days after delivering the child to an
 29 authorized agent of the department, the law enforcement
 30 officer who took the child into custody shall make a full
 31 written report to the department.

Bill No. CS for CS for SB 1666

Amendment No. ____

1 (3) If the child is taken into custody by, or is
2 delivered to, an authorized agent of the department, the
3 authorized agent shall review the facts supporting the removal
4 with an attorney representing the department. The purpose of
5 this review shall be to determine whether probable cause
6 exists for the filing of a shelter petition. If the facts are
7 not sufficient to support the filing of a shelter petition,
8 the child shall immediately be returned to the custody of the
9 parent, ~~caregiver,~~ or legal custodian. If the facts are
10 sufficient to support the filing of the shelter petition and
11 the child has not been returned to the custody of the parent
12 or legal custodian, the department shall file the petition and
13 schedule a hearing, and the attorney representing the
14 department ~~of Children and Family Services~~ shall request that
15 a shelter ~~such~~ hearing ~~to~~ be held as quickly as possible, and
16 not to exceed 24 hours after the removal of the child. While
17 awaiting the shelter hearing, the authorized agent of the
18 department may place the child in licensed shelter care or may
19 release the child to a parent or, legal custodian, ~~caregiver,~~
20 or responsible adult relative who shall be given priority
21 consideration over a licensed placement, or a responsible
22 adult approved by the department when this is in the best
23 interests of the child. Any placement of a child which is not
24 in a licensed shelter must be preceded by a local and state
25 criminal records check, as well as a search of the
26 department's automated abuse information system, on all
27 members of the household, to assess the child's safety within
28 the home. In addition, the department may authorize placement
29 of a housekeeper/homemaker in the home of a child alleged to
30 be dependent until the parent or legal custodian assumes care
31 of the child.

Bill No. CS for CS for SB 1666

Amendment No. ____

1 Section 23. Subsections (1), (5), (11), and (15),
2 paragraph (b) of subsection (6), and paragraph (f) of
3 subsection (8) of section 39.402, Florida Statutes, 1998
4 Supplement, are amended to read:

5 39.402 Placement in a shelter.--

6 (1) Unless ordered by the court under this chapter, a
7 child taken into custody shall not be placed in a shelter
8 prior to a court hearing unless there is probable cause to
9 believe that ~~are reasonable grounds for removal and removal is~~
10 ~~necessary to protect the child. Reasonable grounds for~~
11 ~~removal are as follows:~~

12 (a) The child has been abused, neglected, or
13 abandoned, or is suffering from or is in imminent danger of
14 illness or injury as a result of abuse, neglect, or
15 abandonment;

16 (b) The parent or legal custodian of the child has
17 materially violated a condition of placement imposed by the
18 court; or

19 (c) The child has no parent, legal custodian,
20 ~~caregiver,~~ or responsible adult relative immediately known and
21 available to provide supervision and care.

22 (5)(a) The parents or legal custodians of the child
23 shall be given such notice as best ensures their actual
24 knowledge ~~notice~~ of the date, time, and location of the
25 shelter hearing. If the parents or legal custodians are
26 outside the jurisdiction of the court, are not known, or
27 cannot be located or refuse or evade service, they shall be
28 given such notice as best ensures their actual knowledge of
29 the date, time, and location of the shelter hearing. The
30 person providing or attempting to provide notice to the
31 parents or legal custodians shall, if the parents or legal

Bill No. CS for CS for SB 1666

Amendment No. ____

1 custodians are not present at the hearing, advise the court
2 either in person or by sworn affidavit, of the attempts made
3 to provide notice and the results of those attempts.

4 (b) The parents or legal custodians shall be given
5 written notice that:

6 1. They will be given an opportunity to be heard and
7 to present evidence at the shelter hearing; and

8 2. They have the right to be represented by counsel,
9 and, if indigent, the parents have the right to be represented
10 by appointed counsel, at the shelter hearing and at each
11 subsequent hearing or proceeding, pursuant to the procedures
12 set forth in s. 39.013. If the parents or legal custodians
13 appear for the shelter hearing without legal counsel, then, at
14 their request, the shelter hearing may be continued up to 72
15 hours to enable the parents or legal custodians to consult
16 legal counsel. If a continuance is requested by the parents or
17 legal custodians, the child shall be continued in shelter care
18 for the length of the continuance, if granted by the court.

19 (6)

20 (b) The shelter petition filed with the court must
21 address each condition required to be determined by the court
22 in paragraphs (8)(a), and (b), (d), and (f).

23 (8)

24 (f) The order for placement of a child in shelter care
25 must identify the parties present at the hearing and must
26 contain written findings:

27 1. That placement in shelter care is necessary based
28 on the criteria in subsections (1) and (2).

29 2. That placement in shelter care is in the best
30 interest of the child.

31 3. That continuation of the child in the home is

Bill No. CS for CS for SB 1666

Amendment No. ____

1 contrary to the welfare of the child because the home
2 situation presents a substantial and immediate danger to the
3 child's physical, mental, or emotional health or safety which
4 cannot be mitigated by the provision of preventive services.

5 4. That based upon the allegations of the petition for
6 placement in shelter care, there is probable cause to believe
7 that the child is dependent.

8 5. That the department has made reasonable efforts to
9 prevent or eliminate the need for removal of the child from
10 the home. A finding of reasonable effort by the department to
11 prevent or eliminate the need for removal may be made and the
12 department is deemed to have made reasonable efforts to
13 prevent or eliminate the need for removal if:

14 a. The first contact of the department with the family
15 occurs during an emergency;~~-~~

16 b. The appraisal of the home situation by the
17 department indicates that the home situation presents a
18 substantial and immediate danger to the child's physical,
19 mental, or emotional health or safety which cannot be
20 mitigated by the provision of preventive services;~~-~~

21 c. The child cannot safely remain at home, either
22 because there are no preventive services that can ensure the
23 health and safety of the child or because, even with
24 appropriate and available services being provided, the health
25 and safety of the child cannot be ensured; or~~-~~

26 d. The parent or legal custodian is alleged to have
27 committed any of the acts listed as grounds for expedited
28 termination of parental rights in s. 39.806(1)(f)-(i).

29 6. That the court notified the parents or legal
30 custodians of the time, date, and location of the next
31 dependency hearing ~~subsequent dependency proceedings,~~

Bill No. CS for CS for SB 1666

Amendment No. ____

1 ~~including scheduled hearings,~~ and of the importance of the
2 active participation of the parents or legal custodians in all
3 ~~those subsequent~~ proceedings and hearings.

4 7. That the court notified the parents or legal
5 custodians of their right to counsel to represent them at the
6 shelter hearing and at each subsequent hearing or proceeding,
7 and the right of the parents to appointed counsel, pursuant to
8 the procedures set forth in s. 39.013.

9 (11) If a child is placed in a shelter pursuant to a
10 court order following a shelter hearing, the court shall
11 require in the ~~prepare a~~ shelter hearing order that requiring
12 the parents of the child, or the guardian of the child's
13 estate, if possessed of assets which under law may be
14 disbursed for the care, support, and maintenance of the child,
15 to pay, to the department or institution having custody of the
16 child, fees as established by the department. When the order
17 affects the guardianship estate, a certified copy of the order
18 shall be delivered to the judge having jurisdiction of the
19 guardianship estate. The shelter order shall also require the
20 parents to provide to the department and any other state
21 agency or party designated by the court, within 28 days after
22 entry of the shelter order, the financial information
23 necessary to accurately calculate child support pursuant to s.
24 61.30.

25 (15) At the conclusion of a shelter hearing, the court
26 shall notify all parties in writing of the next scheduled
27 hearing to review the shelter placement. Such hearing shall be
28 held no later than 30 days after placement of the child in
29 shelter status, in conjunction with the arraignment hearing,
30 and every 15 days thereafter until the child is released from
31 shelter status.

Bill No. CS for CS for SB 1666

Amendment No. ____

1 Section 24. Subsections (1), (2), (3), (4), (5), and
2 (11) of section 39.407, Florida Statutes, 1998 Supplement, are
3 amended to read:

4 39.407 Medical, psychiatric, and psychological
5 examination and treatment of child; physical or mental
6 examination of parent or person requesting custody of child.--

7 (1) When any child is removed from the home and
8 maintained in an out-of-home placement ~~taken into custody and~~
9 ~~is to be detained in shelter care~~, the department is
10 authorized to have a medical screening performed on the child
11 without authorization from the court and without consent from
12 a parent or legal custodian. Such medical screening shall be
13 performed by a licensed health care professional and shall be
14 to examine the child for injury, illness, and communicable
15 diseases and to determine the need for immunization. The
16 department shall by rule establish the invasiveness of the
17 medical procedures authorized to be performed under this
18 subsection. In no case does this subsection authorize the
19 department to consent to medical treatment for such children.

20 (2) When the department has performed the medical
21 screening authorized by subsection (1), or when it is
22 otherwise determined by a licensed health care professional
23 that a child who is in an out-of-home placement ~~the custody of~~
24 ~~the department~~, but who has not been committed to the
25 department, is in need of medical treatment, including the
26 need for immunization, consent for medical treatment shall be
27 obtained in the following manner:

28 (a)1. Consent to medical treatment shall be obtained
29 from a parent or legal custodian of the child; or

30 2. A court order for such treatment shall be obtained.

31 (b) If a parent or legal custodian of the child is

Bill No. CS for CS for SB 1666

Amendment No. ____

1 unavailable and his or her whereabouts cannot be reasonably
2 ascertained, and it is after normal working hours so that a
3 court order cannot reasonably be obtained, an authorized agent
4 of the department shall have the authority to consent to
5 necessary medical treatment, including immunization, for the
6 child. The authority of the department to consent to medical
7 treatment in this circumstance shall be limited to the time
8 reasonably necessary to obtain court authorization.

9 (c) If a parent or legal custodian of the child is
10 available but refuses to consent to the necessary treatment,
11 including immunization, a court order shall be required unless
12 the situation meets the definition of an emergency in s.
13 743.064 or the treatment needed is related to suspected abuse,
14 abandonment, or neglect of the child by a parent, caregiver,
15 or legal custodian. In such case, the department shall have
16 the authority to consent to necessary medical treatment. This
17 authority is limited to the time reasonably necessary to
18 obtain court authorization.

19

20 In no case shall the department consent to sterilization,
21 abortion, or termination of life support.

22 (3) A judge may order a child in an out-of-home
23 placement ~~the physical custody of the department~~ to be
24 examined by a licensed health care professional. The judge
25 may also order such child to be evaluated by a psychiatrist or
26 a psychologist, by a district school board educational needs
27 assessment team, or, if a developmental disability is
28 suspected or alleged, by the developmental disability
29 diagnostic and evaluation team of the department. If it is
30 necessary to place a child in a residential facility for such
31 evaluation, then the criteria and procedure established in s.

Bill No. CS for CS for SB 1666

Amendment No. ____

1 394.463(2) or chapter 393 shall be used, whichever is
2 applicable. The educational needs assessment provided by the
3 district school board educational needs assessment team shall
4 include, but not be limited to, reports of intelligence and
5 achievement tests, screening for learning disabilities and
6 other handicaps, and screening for the need for alternative
7 education as defined in s. 230.23.

8 (4) A judge may order a child in an out-of-home
9 placement ~~the physical custody of the department~~ to be treated
10 by a licensed health care professional based on evidence that
11 the child should receive treatment. The judge may also order
12 such child to receive mental health or retardation services
13 from a psychiatrist, psychologist, or other appropriate
14 service provider. If it is necessary to place the child in a
15 residential facility for such services, then the procedures
16 and criteria established in s. 394.467 or chapter 393 shall be
17 used, whichever is applicable. A child may be provided mental
18 health or retardation services in emergency situations,
19 pursuant to the procedures and criteria contained in s.
20 394.463(1) or chapter 393, whichever is applicable.

21 (5) When a child is in an out-of-home placement ~~the~~
22 ~~physical custody of the department~~, a licensed health care
23 professional shall be immediately called if there are
24 indications of physical injury or illness, or the child shall
25 be taken to the nearest available hospital for emergency care.

26 (11) The parents or legal custodian of a child in an
27 out-of-home placement ~~the physical custody of the department~~
28 remain financially responsible for the cost of medical
29 treatment provided to the child even if either one or both of
30 the parents or if the legal custodian did not consent to the
31 medical treatment. After a hearing, the court may order the

Bill No. CS for CS for SB 1666

Amendment No. ____

1 parents or legal custodian, if found able to do so, to
2 reimburse the department or other provider of medical services
3 for treatment provided.

4 Section 25. Paragraphs (a) and (d) of subsection (3)
5 and subsection (4) of section 39.501, Florida Statutes, 1998
6 Supplement, are amended to read:

7 39.501 Petition for dependency.--

8 (3)(a) The petition shall be in writing, shall
9 identify and list all parents, if known, and all current
10 ~~caregivers or~~ legal custodians of the child, and shall be
11 signed by the petitioner under oath stating the petitioner's
12 good faith in filing the petition. When the petition is filed
13 by the department, it shall be signed by an attorney for the
14 department.

15 (d) The petitioner must state in the petition, if
16 known, whether:

17 1. A parent or legal custodian, ~~or caregiver~~ named in
18 the petition has previously unsuccessfully participated in
19 voluntary services offered by the department;

20 2. A parent or legal custodian named in the petition
21 has participated in mediation and whether a mediation
22 agreement exists;

23 3. A parent or legal custodian has rejected the
24 voluntary services offered by the department; or

25 4. The department has determined that voluntary
26 services are not appropriate for the parent or legal custodian
27 ~~this family~~ and the reasons for such determination.

28 (4) When a child has been placed in shelter status by
29 order of the court, a petition alleging dependency must be
30 filed within ~~7 days upon demand of a party, but no later than~~
31 21 days after the shelter hearing, or within 7 days after any

Bill No. CS for CS for SB 1666

Amendment No. ____

1 party files a demand for the early filing of a dependency
2 petition, whichever comes first. In all other cases, the
3 petition must be filed within a reasonable time after the date
4 the child was referred to protective investigation. The
5 child's parent, ~~guardian,~~ or legal custodian must be served
6 with a copy of the petition at least 72 hours before the
7 arraignment hearing.

8 Section 26. Subsections (1), (4), (8), (10), and (13)
9 of section 39.502, Florida Statutes, 1998 Supplement, are
10 amended to read:

11 39.502 Notice, process, and service.--

12 (1) Unless parental rights have been terminated, all
13 parents ~~and legal custodians~~ must be notified of all
14 proceedings or hearings involving the child. Notice in cases
15 involving shelter hearings and hearings resulting from medical
16 emergencies must be that most likely to result in actual
17 notice to the parents ~~and legal custodians~~. In all other
18 dependency proceedings, notice must be provided in accordance
19 with subsections (4) through (9).

20 (4) The summons shall require the person on whom it is
21 served to appear for a hearing at a time and place specified,
22 not less than 72 ~~24~~ hours after service of the summons. A
23 copy of the petition shall be attached to the summons.

24 (8) It is not necessary to the validity of a
25 proceeding covered by this part that the parents, ~~caregivers,~~
26 ~~or legal custodians~~ be present if their identity or residence
27 is unknown after a diligent search has been made, but in this
28 event the petitioner shall file an affidavit of diligent
29 search prepared by the person who made the search and inquiry,
30 and the court may appoint a guardian ad litem for the child.

31 (10) Service by publication shall not be required for

Bill No. CS for CS for SB 1666

Amendment No. ____

1 dependency hearings and the failure to serve a party or give
2 notice to a participant shall not affect the validity of an
3 order of adjudication or disposition if the court finds that
4 the petitioner has completed a diligent search for that party
5 ~~or participant~~.

6 (13) Subpoenas may be served within the state by any
7 person over 18 years of age who is not a party to the
8 proceeding and, in addition, may be served by authorized
9 agents of the department or the guardian ad litem.

10 Section 27. Subsections (1) and (6) of section 39.503,
11 Florida Statutes, 1998 Supplement, are amended to read:

12 39.503 Identity or location of parent ~~or legal~~
13 ~~custodian~~ unknown; special procedures.--

14 (1) If the identity or location of a parent ~~or legal~~
15 ~~custodian~~ is unknown and a petition for dependency or shelter
16 is filed, the court shall conduct the following inquiry of the
17 parent or legal custodian who is available, or, if no parent
18 or legal custodian is available, of any relative or custodian
19 of the child who is present at the hearing and likely to have
20 the information:

21 (a) Whether the mother of the child was married at the
22 probable time of conception of the child or at the time of
23 birth of the child.

24 (b) Whether the mother was cohabiting with a male at
25 the probable time of conception of the child.

26 (c) Whether the mother has received payments or
27 promises of support with respect to the child or because of
28 her pregnancy from a man who claims to be the father.

29 (d) Whether the mother has named any man as the father
30 on the birth certificate of the child or in connection with
31 applying for or receiving public assistance.

Bill No. CS for CS for SB 1666

Amendment No. ____

1 (e) Whether any man has acknowledged or claimed
2 paternity of the child in a jurisdiction in which the mother
3 resided at the time of or since conception of the child, or in
4 which the child has resided or resides.

5 (6) The diligent search required by subsection (5)
6 must include, at a minimum, inquiries of all relatives of the
7 parent or prospective parent made known to the petitioner,
8 inquiries of all offices of program areas of the department
9 likely to have information about the parent or prospective
10 parent, inquiries of other state and federal agencies likely
11 to have information about the parent or prospective parent,
12 inquiries of appropriate utility and postal providers, and
13 inquiries of appropriate law enforcement agencies. Pursuant to
14 s. 453 of the Social Security Act, 42 U.S.C. s. 653(c)~~(B)~~(4),
15 the department, as the state agency administering Titles IV-B
16 and IV-E of the act, shall be provided access to the federal
17 and state parent locator service for diligent search
18 activities.

19 Section 28. Paragraph (a) of subsection (1) and
20 paragraph (a) of subsection (3) of section 39.504, Florida
21 Statutes, 1998 Supplement, are amended to read:

22 39.504 Injunction pending disposition of petition;
23 penalty.--

24 (1)(a) When a petition for shelter placement ~~detention~~
25 or a petition for dependency has been filed or when a child
26 has been taken into custody and reasonable cause, as defined
27 in paragraph (b), exists, the court, upon the request of the
28 department, a law enforcement officer, the state attorney, or
29 other responsible person, or upon its own motion, shall have
30 the authority to issue an injunction to prevent any act of
31 child abuse or any unlawful sexual offense involving a child.

Bill No. CS for CS for SB 1666

Amendment No. ____

1 (3)(a) In every instance in which an injunction is
2 issued under this section, the purpose of the injunction shall
3 be primarily to protect and promote the best interests of the
4 child, taking the preservation of the child's immediate family
5 into consideration. The effective period of the injunction
6 shall be determined by the court, except that the injunction
7 will expire at the time of the disposition of the petition for
8 shelter placement ~~detention~~ or dependency.

9 Section 29. Section 39.506, Florida Statutes, 1998
10 Supplement, is amended to read:

11 39.506 Arraignment hearings.--

12 (1) When a child has been sheltered ~~detained~~ by order
13 of the court, an arraignment hearing must be held no later
14 than 28 days after the shelter hearing, or, within 7 days
15 after the date of filing of the dependency petition if a
16 demand for early filing has been made by any party, for the
17 parent or legal custodian to admit, deny, or consent to
18 findings of dependency alleged in the petition. If the parent
19 or legal custodian admits or consents to the findings in the
20 petition, the court shall conduct a disposition hearing within
21 15 days after the arraignment hearing ~~proceed as set forth in~~
22 ~~the Florida Rules of Juvenile Procedure~~. However, if the
23 parent or legal custodian denies any of the allegations of the
24 petition, the court shall hold an adjudicatory hearing within
25 30 days after the date of the arraignment hearing unless a
26 continuance is granted pursuant to this chapter.

27 (2) When a child is in the custody of the parent or
28 legal custodian, upon the filing of a petition the clerk shall
29 set a date for an arraignment hearing within a reasonable time
30 after the date of the filing. If the parent or legal custodian
31 admits or consents to an adjudication, the court shall conduct

Bill No. CS for CS for SB 1666

Amendment No. ____

1 a disposition hearing within 15 days after the arraignment
2 hearing ~~proceed as set forth in the Florida Rules of Juvenile~~
3 ~~Procedure~~. However, if the parent or legal custodian denies
4 any of the allegations of dependency, the court shall hold an
5 adjudicatory hearing within 30 days ~~a reasonable time~~ after
6 the date of the arraignment hearing.

7 (3) Failure of a person served with notice to
8 personally respond or appear at the arraignment hearing
9 constitutes the person's consent to a dependency adjudication.
10 The document containing the notice to respond or appear must
11 contain, in type at least as large as the balance of the
12 document, the following or substantially similar language:
13 "FAILURE TO ~~RESPOND TO THIS NOTICE OR TO~~ PERSONALLY APPEAR AT
14 THE ARRAIGNMENT HEARING CONSTITUTES CONSENT TO THE
15 ADJUDICATION OF THIS CHILD (OR CHILDREN) AS A DEPENDENT CHILD
16 (OR CHILDREN) AND MAY ULTIMATELY RESULT IN LOSS OF CUSTODY OF
17 THIS CHILD (OR CHILDREN)." If a person appears for the
18 arraignment hearing and the court orders that person to
19 personally appear at the adjudicatory hearing for dependency,
20 stating the date, time, and place of the adjudicatory hearing,
21 then that person's failure to appear for the scheduled
22 adjudicatory hearing constitutes consent to a dependency
23 adjudication.

24 (4) At the arraignment hearing, each party shall
25 provide to the court a permanent mailing address. The court
26 shall advise each party that this address will be used by the
27 court and the petitioner for notice purposes unless and until
28 the party notifies the court and the petitioner in writing of
29 a new mailing address.

30 (5) If at the arraignment hearing the parent or legal
31 custodian consents or admits to the allegations in the

Bill No. CS for CS for SB 1666

Amendment No. ____

1 petition, the court shall proceed to hold a disposition
2 ~~dispositional~~ hearing no more than 15 days after the date of
3 the arraignment hearing unless a continuance is necessary.

4 (6) At any arraignment hearing, if the child is in an
5 out-of-home placement, the court shall order visitation rights
6 absent a clear and convincing showing that visitation is not
7 in the best interest of the child.

8 (7) The court shall review whether the department has
9 made a reasonable effort to prevent or eliminate the need for
10 removal or continued removal of the child from the home. If
11 the court determines that the department has not made such an
12 effort, the court shall order the department to provide
13 appropriate and available services to assure the protection of
14 the child in the home when such services are necessary for the
15 child's physical, mental, or emotional health and safety.

16 (8) At the arraignment hearing, and no more than every
17 15 days thereafter until the child is returned home or a
18 disposition hearing has been conducted, the court shall review
19 the necessity for the child's continued placement in the
20 shelter. The court shall also make a written determination
21 regarding the child's continued placement in shelter within 24
22 hours after any violation of the time requirements for the
23 filing of a petition or prior to the court's granting any
24 continuance as specified in subsection (5).

25 (9) At the conclusion of the arraignment hearing, all
26 parties shall be notified in writing by the court of the date,
27 time, and location for the next scheduled hearing.

28 Section 30. Subsections (2), (5), (6), and (7) of
29 section 39.507, Florida Statutes, 1998 Supplement, are amended
30 to read:

31 39.507 Adjudicatory hearings; orders of

Bill No. CS for CS for SB 1666

Amendment No. ____

1 adjudication.--

2 (2) All hearings, except as provided in this section,
3 shall be open to the public, and a person may not be excluded
4 except on special order of the judge, who may close any
5 hearing to the public upon determining that the public
6 interest or the welfare of the child is best served by so
7 doing. ~~However,~~The parents or legal custodians shall be
8 allowed to obtain discovery pursuant to the Florida Rules of
9 Juvenile Procedure, provided such discovery does not violate.
10 ~~However, nothing in this subsection shall be construed to~~
11 ~~affect~~ the provisions of s. 39.202. Hearings involving more
12 than one child may be held simultaneously when the children
13 involved are related to each other or were involved in the
14 same case. The child and the parents, caregivers, or legal
15 custodians of the child may be examined separately and apart
16 from each other.

17 (5) If the court finds that the child named in the
18 petition is dependent, but finds that no action other than
19 supervision in the child's home is required, it may enter an
20 order briefly stating the facts upon which its finding is
21 based, but withholding an order of adjudication and placing
22 the child's home under the supervision of the department. If
23 the court later finds that the parents, ~~caregivers, or legal~~
24 ~~custodians~~ of the child have not complied with the conditions
25 of supervision imposed, the court may, after a hearing to
26 establish the noncompliance, but without further evidence of
27 the state of dependency, enter an order of adjudication and
28 shall thereafter have full authority under this chapter to
29 provide for the child as adjudicated. If the child is to
30 remain in an out-of-home placement by order of the court, the
31 court must adjudicate the child dependent.

Bill No. CS for CS for SB 1666

Amendment No. ____

1 (6) If the court finds that the child named in a
2 petition is dependent, but chooses not to withhold
3 adjudication or is prohibited from withholding adjudication
4 ~~shall elect not to proceed under subsection (5)~~, it shall
5 incorporate that finding in an order of adjudication entered
6 in the case, briefly stating the facts upon which the finding
7 is made, and the court shall thereafter have full authority
8 under this chapter to provide for the child as adjudicated.

9 (7) At the conclusion of the adjudicatory hearing, if
10 the child named in the petition is found dependent, the court
11 shall schedule the disposition hearing within 30 days after
12 the last day of the adjudicatory hearing ~~the filing of the~~
13 ~~adjudicatory order~~. All parties shall be notified in writing
14 at the conclusion of the adjudicatory hearing by the clerk of
15 the court of the date, time, and location of the disposition
16 hearing.

17 Section 31. Section 39.508, Florida Statutes, 1998
18 Supplement, is amended to read:

19 39.508 Disposition hearings; powers of disposition.--

20 (1) At the disposition hearing, if the court finds
21 that the facts alleged in the petition for dependency were
22 proven in the adjudicatory hearing, or if the parents,
23 ~~caregivers,~~ or legal custodians have consented to the finding
24 of dependency or admitted the allegations in the petition,
25 have failed to appear for the arraignment hearing after proper
26 notice, or have not been located despite a diligent search
27 having been conducted, the court shall receive and consider a
28 case plan and a predisposition study, which must be in writing
29 and presented by an authorized agent of the department.

30 (2) The predisposition study shall cover for any
31 dependent child all factors specified in s. 61.13(3), and must

Bill No. CS for CS for SB 1666

Amendment No. ____

1 also provide the court with the following documented
2 information:

3 (a) An assessment defining the dangers and risks of
4 returning the child home, including a description of the
5 changes in and resolutions to the initial risks.

6 (b) A description of what risks are still present and
7 what resources are available and will be provided for the
8 protection and safety of the child.

9 (c) A description of the benefits of returning the
10 child home.

11 (d) A description of all unresolved issues.

12 (e) An abuse registry history and criminal records
13 check for all caregivers, family members, and individuals
14 residing within the household.

15 (f) The complete report and recommendation of the
16 child protection team of the Department of Health or, if no
17 report exists, a statement reflecting that no report has been
18 made.

19 (g) All opinions or recommendations from other
20 professionals or agencies that provide evaluative, social,
21 reunification, or other services to the parent and child
22 family.

23 (h) The availability of appropriate prevention and
24 reunification services for the parent and child family to
25 prevent the removal of the child from the home or to reunify
26 the child with the parent family after removal, including the
27 availability of family preservation services through the
28 Family Builders Program, the Intensive Crisis Counseling
29 Program, or both.

30 (i) The inappropriateness of other prevention and
31 reunification services that were available.

Bill No. CS for CS for SB 1666

Amendment No. ____

1 (j) The efforts by the department to prevent
2 out-of-home placement of the child or, when applicable, to
3 reunify the parent and child ~~family~~ if appropriate services
4 were available, including the application of intensive family
5 preservation services through the Family Builders Program, the
6 Intensive Crisis Counseling Program, or both.

7 (k) Whether the services were provided to the parent
8 ~~family~~ and child.

9 (l) If the services were provided, whether they were
10 sufficient to meet the needs of the child and the parent
11 ~~family~~ and to enable the child to remain safely at home or to
12 be returned home.

13 (m) If the services were not provided, the reasons for
14 such lack of action.

15 (n) The need for, or appropriateness of, continuing
16 the services if the child remains in the custody of the parent
17 ~~family~~ or if the child is placed outside the home.

18 (o) Whether dependency ~~family~~ mediation was provided.

19 (p) If the child has been removed from the home and
20 there is a parent, ~~caregiver~~, or legal custodian who may be
21 considered for custody pursuant to this section, a
22 recommendation as to whether placement of the child with that
23 parent, ~~caregiver~~, or legal custodian would be detrimental to
24 the child.

25 (q) If the child has been removed from the home and
26 will be remaining with a relative or other adult approved by
27 the court ~~caregiver~~, a home study report concerning the
28 proposed placement shall be included in the predisposition
29 report.

30 (r) If the child has been removed from the home, a
31 determination of the amount of child support each parent will

Bill No. CS for CS for SB 1666

Amendment No. ____

1 be required to pay pursuant to s. 61.30.

2

3 Any other relevant and material evidence, including other
4 written or oral reports, may be received by the court in its
5 effort to determine the action to be taken with regard to the
6 child and may be relied upon to the extent of its probative
7 value, even though not competent in an adjudicatory hearing.
8 Except as otherwise specifically provided, nothing in this
9 section prohibits the publication of proceedings in a hearing.

10 (3)(a)1. Section 435.045(1) notwithstanding, the
11 department may place a child in a foster home which otherwise
12 meets licensing requirements if state and local criminal
13 records checks do not disqualify the applicant and the
14 department has submitted fingerprint information to the
15 Florida Department of Law Enforcement for forwarding to the
16 Federal Bureau of Investigation and is awaiting the results of
17 the federal criminal records check.

18 2. Prospective and approved foster parents must
19 disclose to the department any prior or pending local, state,
20 or federal criminal proceedings in which they are or have been
21 involved.

22 (b)(a) Prior to recommending to the court any
23 out-of-home placement for a child other than placement in a
24 licensed shelter or foster home, the department shall conduct
25 a study of the home of the proposed legal custodians
26 ~~caregivers~~, which must include, at a minimum:

27 1. An interview with the proposed legal custodians
28 ~~adult caregivers~~ to assess their ongoing commitment and
29 ability to care for the child.

30 2. Records checks through the department's automated
31 abuse information system, and local and statewide criminal and

Bill No. CS for CS for SB 1666

Amendment No. ____

1 juvenile records checks through the Department of Law
2 Enforcement, on all household members 12 years of age or older
3 and any other persons made known to the department who are
4 frequent visitors in the home.

5 3. An assessment of the physical environment of the
6 home.

7 4. A determination of the financial security of the
8 proposed legal custodians ~~caregivers~~.

9 5. A determination of suitable child care arrangements
10 if the proposed legal custodians ~~caregivers~~ are employed
11 outside of the home.

12 6. Documentation of counseling and information
13 provided to the proposed legal custodians ~~caregivers~~ regarding
14 the dependency process and possible outcomes.

15 7. Documentation that information regarding support
16 services available in the community has been provided to the
17 proposed legal custodians ~~caregivers~~.

18 ~~(c)(b)~~ The department shall not place the child or
19 continue the placement of the child in the home of the
20 proposed legal custodians ~~caregivers~~ if the results of the
21 home study are unfavorable.

22 (4) If placement of the child with anyone other than
23 the child's parent, ~~caregiver, or legal custodian~~ is being
24 considered, the predisposition study shall include the
25 designation of a specific length of time as to when custody by
26 the parent, ~~caregiver, or legal custodian~~ will be
27 reconsidered.

28 (5) The predisposition study may not be made before
29 the adjudication of dependency unless the parents, ~~caregivers,~~
30 ~~or legal custodians~~ of the child consent.

31 (6) A case plan and predisposition study must be filed

Bill No. CS for CS for SB 1666

Amendment No. ____

1 with the court and served upon the parents, ~~caregivers, or~~
2 ~~legal custodians~~ of the child, provided to the representative
3 of the guardian ad litem program, if the program has been
4 appointed, and provided to all other parties not less than 72
5 hours before the disposition hearing. All such case plans must
6 be approved by the court. If the court does not approve the
7 case plan at the disposition hearing, the court must set a
8 hearing within 30 days after the disposition hearing to review
9 and approve the case plan.

10 (7) The initial judicial review must be held no later
11 than 90 days after the date of the disposition hearing or
12 after the date of the hearing at which the court approves the
13 case plan, whichever occurs earlier, but in no event shall the
14 review be held later than 6 months after the date of the
15 child's removal from the home.

16 (8) When any child is adjudicated by a court to be
17 dependent, and the court finds that removal of the child from
18 the custody of a parent or legal custodian, ~~or caregiver~~ is
19 necessary, the court shall first determine whether there is a
20 parent with whom the child was not residing at the time the
21 events or conditions arose that brought the child within the
22 jurisdiction of the court who desires to assume custody of the
23 child and, if such parent requests custody, the court shall
24 place the child with the parent unless it finds that such
25 placement would endanger the safety, well-being, or physical,
26 mental, or emotional health of the child. Any party with
27 knowledge of the facts may present to the court evidence
28 regarding whether the placement will endanger the safety,
29 well-being, or physical, mental, or emotional health of the
30 child. If the court places the child with such parent, it may
31 do either of the following:

Bill No. CS for CS for SB 1666

Amendment No. ____

1 (a) Order that the parent assume sole custodial
2 responsibilities for ~~become the legal and physical custodian~~
3 ~~of~~ the child. The court may also provide for reasonable
4 visitation by the noncustodial parent. The court may ~~shall~~
5 then terminate its jurisdiction over the child. The custody
6 order shall continue unless modified by a subsequent order of
7 the circuit court hearing dependency matters. The order of the
8 circuit juvenile court hearing dependency matters shall be
9 filed in any dissolution or other custody action or proceeding
10 between the parents and shall take precedence over other
11 custody and visitation orders entered in those actions.

12 (b) Order that the parent assume custody subject to
13 the jurisdiction of the circuit juvenile court hearing
14 dependency matters. The court may order that reunification
15 services be provided to the parent, ~~caregiver, or legal~~
16 ~~custodian~~ from whom the child has been removed, that services
17 be provided solely to the parent who is assuming physical
18 custody in order to allow that parent to retain later custody
19 without court jurisdiction, or that services be provided to
20 both parents, in which case the court shall determine at every
21 review hearing which parent, if either, shall have custody of
22 the child. The standard for changing custody of the child from
23 one parent to another or to a relative or another adult
24 approved by the court shall be the best interest of the child
25 ~~caregiver must meet the home study criteria and court approval~~
26 ~~pursuant to this chapter~~.

27 (9)(a) When any child is adjudicated by a court to be
28 dependent, the court having jurisdiction of the child has the
29 power, by order, to:

30 1. Require the parent, ~~caregiver,~~ or legal custodian,
31 and the child when appropriate, to participate in treatment

Bill No. CS for CS for SB 1666

Amendment No. ____

1 and services identified as necessary.

2 2. Require the parent, ~~caregiver~~, or legal custodian,
3 and the child when appropriate, to participate in mediation if
4 the parent, ~~caregiver~~, or legal custodian refused to
5 participate in mediation.

6 3. Place the child under the protective supervision of
7 an authorized agent of the department, either in the child's
8 own home or, the prospective custodian being willing, in the
9 home of a relative of the child or of another adult ~~a~~
10 ~~caregiver~~ approved by the court, or in some other suitable
11 place under such reasonable conditions as the court may
12 direct. Protective supervision continues until the court
13 terminates it or until the child reaches the age of 18,
14 whichever date is first. Protective supervision shall be
15 terminated by the court whenever the court determines that
16 permanency has been achieved for the child, whether with a
17 parent, another relative, or a legal custodian, ~~or a~~
18 ~~caregiver~~, and that protective supervision is no longer
19 needed. The termination of supervision may be with or without
20 retaining jurisdiction, at the court's discretion, and shall
21 in either case be considered a permanency option for the
22 child. The order terminating supervision by the department
23 shall set forth the powers of the custodian of the child and
24 shall include the powers ordinarily granted to a guardian of
25 the person of a minor unless otherwise specified. Upon the
26 court's termination of supervision by the department, no
27 further judicial reviews are required, so long as permanence
28 has been established for the child.

29 4. Place the child in the temporary legal custody of
30 an adult relative or other adult ~~caregiver~~ approved by the
31 court who is willing to care for the child. The department

Bill No. CS for CS for SB 1666

Amendment No. ____

1 must supervise this placement until the child reaches
2 permanency status in this home, and in no case for a period of
3 less than 6 months. Permanency in a relative placement shall
4 be by adoption, long-term custody, or guardianship.

5 5.a. When the parents have failed to comply with a
6 case plan and the court determines at a judicial review
7 hearing, or at an adjudication hearing held pursuant to this
8 section, that neither reunification, termination of parental
9 rights, nor adoption is in the best interest of the child, the
10 court may place the child in the long-term custody of an adult
11 relative or other adult caregiver approved by the court
12 willing to care for the child, if all of the following
13 conditions are met:

14 (I) A case plan describing the responsibilities of the
15 relative or other adult caregiver, the department, and any
16 other party must have been submitted to the court.

17 (II) The case plan for the child does not include
18 reunification with the parents or adoption by the relative or
19 other adult caregiver.

20 (III) The child and the relative or other adult
21 caregiver are determined not to need protective supervision or
22 preventive services to ensure the stability of the long-term
23 custodial relationship, or the department assures the court
24 that protective supervision or preventive services will be
25 provided in order to ensure the stability of the long-term
26 custodial relationship.

27 (IV) Each party to the proceeding agrees that a
28 long-term custodial relationship does not preclude the
29 possibility of the child returning to the custody of the
30 parent at a later date, should the parent demonstrate a
31 material change in circumstances and the return of the child

Bill No. CS for CS for SB 1666

Amendment No. ____

1 to the parent is in the child's best interest.

2 (V) The court has considered the reasonable preference
3 of the child if the court has found the child to be of
4 sufficient intelligence, understanding, and experience to
5 express a preference.

6 (VI) The court has considered the recommendation of
7 the guardian ad litem if one has been appointed.

8 (VII) The relative or other adult has made a
9 commitment to provide for the child until the child reaches
10 the age of majority and to prepare the child for adulthood and
11 independence.

12 (VIII) The relative or other adult agrees not to
13 return the child to the physical care and custody of the
14 person from whom the child was removed, including for short
15 visitation periods, without the approval of the court.

16 b. The court shall retain jurisdiction over the case,
17 and the child shall remain in the long-term custody of the
18 relative or other adult ~~caregiver~~ approved by the court until
19 the order creating the long-term custodial relationship is
20 modified by the court. The court shall discontinue regular
21 judicial review hearings and may relieve the department of the
22 responsibility for supervising the placement of the child
23 whenever the court determines that the placement is stable and
24 that such supervision is no longer needed. The child must be
25 in the placement for a minimum of 6 continuous months before
26 the court may consider termination of the department's
27 supervision. Notwithstanding the retention of jurisdiction,
28 the placement shall be considered a permanency option for the
29 child when the court relieves the department of the
30 responsibility for supervising the placement. The order
31 terminating supervision by the department shall set forth the

Bill No. CS for CS for SB 1666

Amendment No. ____

1 powers of the custodian of the child and shall include the
 2 powers ordinarily granted to a guardian of the person of a
 3 minor unless otherwise specified. The court may modify the
 4 order terminating supervision of the long-term ~~relative or~~
 5 ~~caregiver~~ placement if it finds that ~~a party to the proceeding~~
 6 ~~has shown a material change in circumstances which causes the~~
 7 long-term ~~relative or caregiver~~ placement is to be no longer
 8 in the best interest of the child.

9 6.a. Approve placement of the child in long-term
 10 out-of-home care, when the following conditions are met:

11 (I) The foster child is 16 years of age or older,
 12 unless the court determines that the history or condition of a
 13 younger child makes long-term out-of-home care the most
 14 appropriate placement.

15 (II) The child demonstrates no desire to be placed in
 16 an independent living arrangement pursuant to this subsection.

17 (III) The department's social services study pursuant
 18 to part VIII recommends long-term out-of-home care.

19
 20 ~~b.~~ Long-term out-of-home care under the above conditions
 21 shall not be considered a permanency option.

22 ~~b.c.~~ The court may approve placement of the child in
 23 long-term out-of-home care, as a permanency option, when all
 24 of the following conditions are met:

25 (I) The child is 14 years of age or older.7

26 (II) The child is living in a licensed home and the
 27 foster parents desire to provide care for the child on a
 28 permanent basis and the foster parents and the child do not
 29 desire adoption.7

30 (III) The foster family has made a commitment to
 31 provide for the child until he or she reaches the age of

Bill No. CS for CS for SB 1666

Amendment No. ____

1 majority and to prepare the child for adulthood and
2 independence, ~~and~~

3 (IV) The child has remained in the home for a
4 continuous period of no less than 12 months.

5 (V) The foster parents and the child view one another
6 as family and consider living together as the best place for
7 the child to be on a permanent basis.

8 (VI) The department's social services study recommends
9 such placement and finds the child's well-being has been
10 promoted through living with the foster parents.

11

12 ~~d.~~ Notwithstanding the retention of jurisdiction and
13 supervision by the department, long-term out-of-home care
14 placements made pursuant to this section shall be considered a
15 permanency option for the child. For purposes of this
16 subsection, supervision by the department shall be defined as
17 a minimum of semiannual visits. The order placing the child
18 in long-term out-of-home care as a permanency option shall set
19 forth the powers of the custodian of the child and shall
20 include the powers ordinarily granted to a guardian of the
21 person of a minor unless otherwise specified. The court may
22 modify the permanency option of long-term out-of-home care if
23 it finds that ~~a party to the proceeding has shown a material~~
24 ~~change in circumstances which causes~~ the placement is to be no
25 longer in the best interests of the child.

26 c.e. Approve placement of the child in an independent
27 living arrangement for any ~~foster~~ child 16 years of age or
28 older, if it can be clearly established that this type of
29 alternate care arrangement is the most appropriate plan and
30 that the health, safety, and well-being of the child will not
31 be jeopardized by such an arrangement. While in independent

Bill No. CS for CS for SB 1666

Amendment No. ____

1 living situations, children whose legal custody has been
2 awarded to the department or a licensed child-caring or
3 child-placing agency, or who have been voluntarily placed with
4 such an agency by a parent, guardian, relative, or adult
5 ~~nonrelative~~ approved by the court, continue to be subject to
6 court review provisions.

7 7. Commit the child to the temporary legal custody of
8 the department. Such commitment invests in the department all
9 rights and responsibilities of a legal custodian. The
10 department shall not return any child to the physical care and
11 custody of the person from whom the child was removed, except
12 for court-approved ~~short~~ visitation periods, without the
13 approval of the court. The term of such commitment continues
14 until terminated by the court or until the child reaches the
15 age of 18. After the child is committed to the temporary
16 custody of the department, all further proceedings under this
17 section are also governed by this chapter.

18 8.a. Change the temporary legal custody or the
19 conditions of protective supervision at a postdisposition
20 hearing ~~subsequent to the initial detention hearing~~, without
21 the necessity of another adjudicatory hearing. A child who has
22 been placed in the child's own home under the protective
23 supervision of an authorized agent of the department, in the
24 home of a relative, in the home of a legal custodian ~~or~~
25 ~~caregiver~~, or in some other place may be brought before the
26 court by ~~the agent of the department who is supervising the~~
27 ~~placement~~ or by any other interested person, upon the filing
28 of a petition alleging a need for a change in the conditions
29 of protective supervision or the placement. If the parents or
30 other legal custodians deny the need for a change, the court
31 shall hear all parties in person or by counsel, or both. Upon

Bill No. CS for CS for SB 1666

Amendment No. ____

1 the admission of a need for a change or after such hearing,
2 the court shall enter an order changing the placement,
3 modifying the conditions of protective supervision, or
4 continuing the conditions of protective supervision as
5 ordered. The standard for changing custody of the child shall
6 be the best interest of the child. If the child is not placed
7 in foster care, then the new placement for the child ~~from one~~
8 parent to another or to a relative or caregiver must meet the
9 home study criteria and court approval pursuant to this
10 chapter.

11 b. In cases where the issue before the court is
12 whether a child should be reunited with a parent, the court
13 shall determine whether the parent has substantially complied
14 with the terms of the case plan to the extent that the safety,
15 well-being, and physical, mental, and emotional health of the
16 child is not endangered by the return of the child to the
17 home.

18 (b) The court shall, in its written order of
19 disposition, include all of the following:

20 1. The placement or custody of the child as provided
21 in paragraph (a).

22 2. Special conditions of placement and visitation.

23 3. Evaluation, counseling, treatment activities, and
24 other actions to be taken by the parties, if ordered.

25 4. The persons or entities responsible for supervising
26 or monitoring services to the child and parent family.

27 5. Continuation or discharge of the guardian ad litem,
28 as appropriate.

29 6. The date, time, and location of the next scheduled
30 review hearing, which must occur ~~within 90 days after the~~
31 ~~disposition hearing or~~ within the earlier of:

Bill No. CS for CS for SB 1666

Amendment No. ____

- 1 a. Ninety days after the disposition hearing;
2 b. Ninety days after the court accepts the case plan;
3 ~~c.a.~~ Six months after the date of the last review
4 hearing; or
5 ~~d.b.~~ Six months after the date of the child's removal
6 from his or her home, if no review hearing has been held since
7 the child's removal from the home.
- 8 7. Other requirements necessary to protect the health,
9 safety, and well-being of the child, to preserve the stability
10 of the child's educational placement, and to promote family
11 preservation or reunification whenever possible.
- 12 (c) If the court finds that the prevention or
13 reunification efforts of the department will allow the child
14 to remain safely at home or be safely returned to the home,
15 the court shall allow the child to remain in or return to the
16 home after making a specific finding of fact that the reasons
17 for removal have been remedied to the extent that the child's
18 safety, well-being, and physical, mental, and emotional health
19 will not be endangered.
- 20 (d) If the court places ~~commits~~ the child in an
21 out-of-home placement ~~to the temporary legal custody of the~~
22 ~~department~~, the disposition order must include a written
23 determination that the child cannot safely remain at home with
24 reunification or family preservation services and that removal
25 of the child is necessary to protect the child. If the child
26 has been removed before the disposition hearing, the order
27 must also include a written determination as to whether, after
28 removal, the department has made a reasonable effort to
29 reunify the parent and child, if reasonable efforts are
30 required ~~family~~. Reasonable efforts to reunify are not
31 required if the court has found that any of the acts listed in

Bill No. CS for CS for SB 1666

Amendment No. ____

1 s. 39.806(1)(f)-(i) have occurred.The department has the
2 burden of demonstrating that it has made reasonable efforts
3 under this paragraph.

4 1. For the purposes of this paragraph, the term
5 "reasonable effort" means the exercise of reasonable diligence
6 and care by the department to provide the services delineated
7 in the case plan.

8 2. In support of its determination as to whether
9 reasonable efforts have been made, the court shall:

10 a. Enter written findings as to whether or not
11 prevention or reunification efforts were indicated.

12 b. If prevention or reunification efforts were
13 indicated, include a brief written description of what
14 appropriate and available prevention and reunification efforts
15 were made.

16 c. Indicate in writing why further efforts could or
17 could not have prevented or shortened the separation of the
18 parent and child family.

19 3. A court may find that the department has made a
20 reasonable effort to prevent or eliminate the need for removal
21 if:

22 a. The first contact of the department with the family
23 occurs during an emergency;—

24 b. The appraisal by the department of the home
25 situation indicates that it presents a substantial and
26 immediate danger to the child's safety or physical, mental, or
27 emotional health which cannot be mitigated by the provision of
28 preventive services;—

29 c. The child cannot safely remain at home, either
30 because there are no preventive services that can ensure the
31 health and safety of the child or, even with appropriate and

Bill No. CS for CS for SB 1666

Amendment No. ____

1 available services being provided, the health and safety of
2 the child cannot be ensured; ~~or-~~

3 d. The parent or legal custodian is alleged to have
4 committed any of the acts listed as grounds for expedited
5 termination of parental rights in s. 39.806(1)(f)-(i).

6 4. A reasonable effort by the department for
7 reunification of the parent and child ~~family~~ has been made if
8 the appraisal of the home situation by the department
9 indicates that the severity of the conditions of dependency is
10 such that reunification efforts are inappropriate. The
11 department has the burden of demonstrating to the court that
12 reunification efforts were inappropriate.

13 5. If the court finds that the prevention or
14 reunification effort of the department would not have
15 permitted the child to remain safely at home, the court may
16 commit the child to the temporary legal custody of the
17 department or take any other action authorized by this
18 chapter.

19 (10)(a) When any child is adjudicated by the court to
20 be dependent and temporary legal custody of the child has been
21 placed with an adult relative, legal custodian, or other adult
22 ~~caregiver~~ approved by the court, a licensed child-caring
23 agency, or the department, the court shall, unless a parent
24 has voluntarily executed a written surrender for purposes of
25 adoption, order the parents, or the guardian of the child's
26 estate if possessed of assets which under law may be disbursed
27 for the care, support, and maintenance of the child, to pay
28 child support to the ~~adult relative,~~ legal custodian, ~~or~~
29 ~~caregiver~~ caring for the child, the licensed child-caring
30 agency, or the department. The court may exercise jurisdiction
31 over all child support matters, shall adjudicate the financial

Bill No. CS for CS for SB 1666

Amendment No. ____

1 obligation, including health insurance, of the child's parents
2 or guardian, and shall enforce the financial obligation as
3 provided in chapter 61. The state's child support enforcement
4 agency shall enforce child support orders under this section
5 in the same manner as child support orders under chapter 61.

6 (b) Placement of the child pursuant to subsection (8)
7 shall not be contingent upon issuance of a support order.

8 (11)(a) If the court does not commit the child to the
9 temporary legal custody of an adult relative, legal custodian,
10 or other adult caregiver approved by the court, the
11 disposition order shall include the reasons for such a
12 decision and shall include a determination as to whether
13 diligent efforts were made by the department to locate an
14 adult relative, legal custodian, or other adult caregiver
15 willing to care for the child in order to present that
16 placement option to the court instead of placement with the
17 department.

18 (b) If diligent efforts are made to locate an adult
19 relative willing and able to care for the child but, because
20 no suitable relative is found, the child is placed with the
21 department or a legal custodian or other adult approved by the
22 court caregiver, both the department and the court shall
23 consider transferring temporary legal custody to an adult
24 relative approved by the court at a later date, but neither
25 the department nor the court is obligated to so place the
26 child if it is in the child's best interest to remain in the
27 current placement. For the purposes of this paragraph,
28 "diligent efforts to locate an adult relative" means a search
29 similar to the diligent search for a parent, but without the
30 continuing obligation to search after an initial adequate
31 search is completed.

Bill No. CS for CS for SB 1666

Amendment No. ____

1 (12) An agency granted legal custody shall have the
2 right to determine where and with whom the child shall live,
3 but an individual granted legal custody shall exercise all
4 rights and duties personally unless otherwise ordered by the
5 court.

6 (13) In carrying out the provisions of this chapter,
7 the court may order the ~~natural~~ parents, ~~caregivers~~, or legal
8 custodians of a child who is found to be dependent to
9 participate in family counseling and other professional
10 counseling activities deemed necessary for the rehabilitation
11 of the child.

12 (14) With respect to a child who is the subject in
13 proceedings under this chapter, the court shall issue to the
14 department an order to show cause why it should not return the
15 child to the custody of the ~~natural~~ parents, ~~legal custodians~~,
16 ~~or caregivers~~ upon expiration of the case plan, or sooner if
17 the parents, ~~legal custodians~~, or ~~caregivers~~ have
18 substantially complied with the case plan.

19 (15) The court may ~~at any time~~ enter an order ending
20 its jurisdiction over a ~~any~~ child, ~~except that~~, when a child
21 has been returned to the parents ~~under subsection (14)~~,
22 provided the court shall not terminate its jurisdiction or the
23 department's supervision over the child until 6 months after
24 the child's return. ~~Based on a report of the department or~~
25 ~~agency or the child's guardian ad litem, and any other~~
26 ~~relevant factors~~, The court shall ~~then~~ determine whether its
27 jurisdiction should be continued or terminated in such a case
28 based on a report of the department or agency or the child's
29 guardian ad litem, and any other relevant factors; if its
30 jurisdiction is to be terminated, the court shall enter an
31 order to that effect.

Bill No. CS for CS for SB 1666

Amendment No. ____

1 Section 32. Paragraphs (a) and (d) of subsection (2)
2 of section 39.5085, Florida Statutes, 1998 Supplement, are
3 amended to read:

4 39.5085 Relative Caregiver Program.--

5 (2)(a) The Department of Children and Family Services
6 shall establish and operate the Relative Caregiver Program
7 pursuant to eligibility guidelines established in this section
8 as further implemented by rule of the department. The Relative
9 Caregiver Program shall, within the limits of available
10 funding, provide financial assistance to relatives who are
11 within the fifth degree by blood or marriage to the parent or
12 stepparent of a child and who are caring full-time for that
13 child in the role of substitute parent as a result of a
14 court's ~~departmental~~ determination of child abuse, neglect, or
15 abandonment and subsequent placement with the relative
16 pursuant to this chapter. Such placement may be either
17 court-ordered temporary legal custody to the relative pursuant
18 to s. 39.508(9)(a)4., or court-ordered placement in the home
19 of a relative under protective supervision of the department
20 pursuant to s. 39.508(9)(a)3. The Relative Caregiver Program
21 shall offer financial assistance to caregivers who are
22 relatives and who would be unable to serve in that capacity
23 without the relative caregiver payment because of financial
24 burden, thus exposing the child to the trauma of placement in
25 a shelter or in foster care.

26 (d) Relatives who are caring for children placed with
27 them by the court pursuant to this chapter ~~child protection~~
28 ~~system~~ shall receive a special monthly relative caregiver
29 benefit established by rule of the department. The amount of
30 the special benefit payment shall be based on the child's age
31 within a payment schedule established by rule of the

Bill No. CS for CS for SB 1666

Amendment No. ____

1 department and subject to availability of funding. The
2 statewide average monthly rate for children judicially placed
3 with relatives who are not licensed as foster homes may not
4 exceed 82 percent of the statewide average foster care rate,
5 nor may the cost of providing the assistance described in this
6 section to any relative caregiver exceed the cost of providing
7 out-of-home care in emergency shelter or foster care.

8 Section 33. Section 39.509, Florida Statutes, 1998
9 Supplement, is amended to read:

10 39.509 Grandparents rights.--Notwithstanding any other
11 provision of law, a maternal or paternal grandparent as well
12 as a stepgrandparent is entitled to reasonable visitation with
13 his or her grandchild who has been adjudicated a dependent
14 child and taken from the physical custody of the parent,
15 ~~custodian, legal guardian, or caregiver~~ unless the court finds
16 that such visitation is not in the best interest of the child
17 or that such visitation would interfere with the goals of the
18 case plan. Reasonable visitation may be unsupervised and,
19 where appropriate and feasible, may be frequent and
20 continuing.

21 (1) Grandparent visitation may take place in the home
22 of the grandparent unless there is a compelling reason for
23 denying such a visitation. The department's caseworker shall
24 arrange the visitation to which a grandparent is entitled
25 pursuant to this section. The state shall not charge a fee
26 for any costs associated with arranging the visitation.
27 However, the grandparent shall pay for the child's cost of
28 transportation when the visitation is to take place in the
29 grandparent's home. The caseworker shall document the reasons
30 for any decision to restrict a grandparent's visitation.

31 (2) A grandparent entitled to visitation pursuant to

Bill No. CS for CS for SB 1666

Amendment No. ____

1 this section shall not be restricted from appropriate displays
2 of affection to the child, such as appropriately hugging or
3 kissing his or her grandchild. Gifts, cards, and letters from
4 the grandparent and other family members shall not be denied
5 to a child who has been adjudicated a dependent child.

6 (3) Any attempt by a grandparent to facilitate a
7 meeting between the child who has been adjudicated a dependent
8 child and the child's parent or legal ~~custodian, or any other~~
9 ~~person legal guardian, or caregiver~~ in violation of a court
10 order shall automatically terminate future visitation rights
11 of the grandparent.

12 (4) When the child has been returned to the physical
13 custody of his or her parent ~~or permanent custodian, legal~~
14 ~~guardian, or caregiver~~, the visitation rights granted pursuant
15 to this section shall terminate.

16 (5) The termination of parental rights does not affect
17 the rights of grandparents unless the court finds that such
18 visitation is not in the best interest of the child or that
19 such visitation would interfere with the goals of permanency
20 planning for the child.

21 (6) In determining whether grandparental visitation is
22 not in the child's best interest, consideration may be given
23 to the finding of guilt, regardless of adjudication, or entry
24 or plea of guilty or nolo contendere to charges under the
25 following statutes, or similar statutes of other
26 jurisdictions: s. 787.04, relating to removing minors from
27 the state or concealing minors contrary to court order; s.
28 794.011, relating to sexual battery; s. 798.02, relating to
29 lewd and lascivious behavior; chapter 800, relating to
30 lewdness and indecent exposure; or chapter 827, relating to
31 the abuse of children. Consideration may also be given to a

Bill No. CS for CS for SB 1666

Amendment No. ____

1 report finding of ~~confirmed~~ abuse, abandonment, or neglect
2 under ss. 415.101-415.113 or this chapter and the outcome of
3 the investigation concerning such report.

4 Section 34. Subsections (1) and (2) of section 39.510,
5 Florida Statutes, 1998 Supplement, are amended to read:

6 39.510 Appeal.--

7 (1) Any ~~child, parent, guardian ad litem, caregiver,~~
8 ~~or legal custodian of any child, any other party to the~~
9 proceeding who is affected by an order of the court, or the
10 department may appeal to the appropriate district court of
11 appeal within the time and in the manner prescribed by the
12 Florida Rules of Appellate Procedure. Appointed counsel shall
13 be compensated as provided in this chapter.

14 (2) When the notice of appeal is filed in the circuit
15 court by a party other than the department,an attorney for
16 the department shall represent the state and the court upon
17 appeal and shall be notified of the appeal by the clerk ~~when~~
18 ~~the notice of appeal is filed in the circuit court by a party~~
19 ~~other than the department.~~

20 Section 35. Section 39.601, Florida Statutes, 1998
21 Supplement, is amended to read:

22 39.601 Case plan requirements.--

23 (1) The department or agent of the department shall
24 develop a case plan for each child ~~or child's family~~ receiving
25 services pursuant to this chapter. A parent, ~~caregiver, or~~
26 ~~legal custodian~~ of a child may not be required nor coerced
27 through threat of loss of custody or parental rights to admit
28 in the case plan to abusing, neglecting, or abandoning a
29 child. Where dependency mediation services are available and
30 appropriate to the best interests of the child, the court may
31 refer the case to mediation for development of a case plan.

Bill No. CS for CS for SB 1666

Amendment No. ____

1 This section does not change the provisions of s. 39.807.

2 (a) The case plan must be developed in conference with
3 the parent, ~~caregiver, or legal custodian~~ of the child and any
4 court-appointed guardian ad litem and, if appropriate, the
5 child.

6 (b) The case plan must be written simply and clearly
7 in English and, if English is not the principal language of
8 the child's parent, ~~caregiver, or legal custodian~~, to the
9 extent possible in such principal language.

10 (c) The case plan must describe the minimum number of
11 face-to-face meetings to be held each month between the
12 parents, ~~caregivers, or legal custodians~~ and the department's
13 caseworkers to review progress of the plan, to eliminate
14 barriers to progress, and to resolve conflicts or
15 disagreements.

16 (d) The case plan must be subject to modification
17 based on changing circumstances.

18 (e) The case plan must be signed by all parties.

19 (f) The case plan must be reasonable, accurate, and in
20 compliance with the requirements of other court orders.

21 (2) When the child or parent family is receiving
22 services, the case plan must include, in addition to the
23 requirements in subsection (1), at a minimum:

24 (a) A description of the problem being addressed that
25 includes the behavior or act of a parent, ~~legal custodian, or~~
26 ~~caregiver~~ resulting in risk to the child and the reason for
27 the department's intervention.

28 (b) A description of the tasks with which the parent
29 must comply and the services to be provided to the parent
30 family and child specifically addressing the identified
31 problem, including:

Bill No. CS for CS for SB 1666

Amendment No. ____

- 1 1. Type of services or treatment.
- 2 2. Frequency of services or treatment.
- 3 3. Location of the delivery of the services.
- 4 4. The accountable department staff or service
- 5 provider.

6 (c) A description of the measurable objectives,
7 including timeframes for achieving objectives, addressing the
8 identified problem.

9 (3) When the child is receiving services in an
10 out-of-home ~~a placement outside the child's home or in foster~~
11 ~~care~~, the case plan must be filed with ~~submitted to~~ the court,
12 for approval by the court, at least 72 hours prior to ~~at~~ the
13 disposition hearing. The case plan must be served on all
14 parties whose whereabouts are known at least 72 hours prior to
15 the disposition hearing and must include, in addition to the
16 requirements in subsections (1) and (2), at a minimum:

17 (a) A description of the permanency goal for the
18 child, including the type of placement. Reasonable efforts to
19 place a child in a home that will serve as an adoptive
20 placement if reunification is not successful,~~for adoption~~ or
21 with a legal custodian,~~guardian~~ may be made concurrently with
22 reasonable efforts to prevent removal of the child from the
23 home or make it possible for the child to return safely home.

24 (b) A description of the type of home or institution
25 in which the child is to be placed.

26 (c) A description of the financial support obligation
27 to the child, including health insurance, of the child's
28 ~~parent, parents, caregiver, or legal custodian.~~

29 (d) A description of the visitation rights and
30 obligations of the ~~parent or parents, caregiver, or legal~~
31 ~~custodian~~ during the period the child is in care.

Bill No. CS for CS for SB 1666

Amendment No. ____

1 (e) A discussion of the safety and appropriateness of
2 the child's placement, which placement is intended to be safe,
3 the least restrictive and most family-like setting available
4 consistent with the best interest and special needs of the
5 child, and in as close proximity as possible to the child's
6 home. The plan must also establish the role for the foster
7 parents or legal custodians in the development of the services
8 which are to be provided to the child, foster parents, or
9 legal custodians. It must also address the child's need for
10 services while under the jurisdiction of the court and
11 implementation of these services in the case plan.

12 (f) A description of the efforts to be undertaken to
13 maintain the stability of the child's educational placement.

14 (g) A discussion of the department's plans to carry
15 out the judicial determination made by the court, with respect
16 to the child, in accordance with this chapter and applicable
17 federal regulations.

18 (h) A description of the plan for assuring that
19 services outlined in the case plan are provided to the child
20 and the child's parent or parents, ~~legal custodians, or~~
21 ~~caregivers~~, to improve the conditions in the family home and
22 facilitate either the safe return of the child to the home or
23 the permanent placement of the child.

24 (i) A description of the plan for assuring that
25 services as outlined in the case plan are provided to the
26 child, ~~and the child's parent or parents, and the child's~~
27 ~~legal custodians, or caregivers~~, to address the needs of the
28 child, and a discussion of the appropriateness of the
29 services.

30 (j) A description of the plan for assuring that
31 services are provided to the child and the child's legal

Bill No. CS for CS for SB 1666

Amendment No. ____

1 custodians or foster parents to address the needs of the child
2 while in an out-of-home placement ~~foster care~~, which shall
3 include an itemized list of costs to be borne by the parent ~~or~~
4 ~~caregiver~~ associated with any services or treatment that the
5 parent and child are expected to receive.

6 (k) A written notice to the parent that failure of the
7 parent to substantially comply with the case plan may result
8 in the termination of parental rights, and that a material
9 failure to substantially comply may result in the filing of a
10 petition for termination of parental rights sooner than the
11 compliance periods set forth in the case plan itself. The case
12 staffing committee shall coordinate its efforts with the child
13 protection team of the Department of Health.

14 (l) In the case of a child for whom the permanency
15 plan is adoption or placement in another permanent home,
16 documentation of the steps the agency is taking to find an
17 adoptive family or other permanent living arrangement for the
18 child, to place the child with an adoptive family, with a fit
19 and willing relative, with a legal custodian ~~guardian~~, or in
20 another planned permanent living arrangement, and to finalize
21 the adoption, ~~or~~ legal guardianship, or long-term custodial
22 relationship. At a minimum, such documentation shall include
23 child-specific recruitment efforts such as the use of state,
24 regional, and national adoption exchanges, including
25 electronic exchange systems.

26 (4) In the event that the parents, ~~legal custodians,~~
27 ~~or caregivers~~ are unwilling or unable to participate in the
28 development of a case plan, the department shall document that
29 unwillingness or inability to participate. Such documentation
30 must be provided in writing to the parent, ~~legal custodians,~~
31 ~~or caregivers~~ when available for the court record, and then

Bill No. CS for CS for SB 1666

Amendment No. ____

1 the department shall prepare a case plan conforming as nearly
2 as possible with the requirements set forth in this section.
3 The unwillingness or inability of the parents, ~~legal~~
4 ~~custodians, or caregivers~~ to participate in the development of
5 a case plan shall not in itself bar the filing of a petition
6 for dependency or for termination of parental rights. The
7 parents, ~~legal custodians, or caregivers~~, if available, must
8 be provided a copy of the case plan and be advised that they
9 may, at any time prior to the filing of a petition for
10 termination of parental rights, enter into a case plan and
11 that they may request judicial review of any provision of the
12 case plan with which they disagree at any court review hearing
13 set for the child.

14 (5) The services delineated in the case plan must be
15 designed either to improve the conditions in the family home
16 and aid in maintaining the child in the home, to facilitate
17 the safe return of the child to the family home, or to
18 facilitate the permanent placement of the child. The service
19 intervention must be the least intrusive possible into the
20 life of the parent and child family, must focus on clearly
21 defined objectives, and must provide the most efficient path
22 to quick reunification or permanent placement, with the
23 child's health and safety being paramount. To the extent
24 possible, the service intervention must be grounded in outcome
25 evaluation results that demonstrate success in the
26 reunification or permanent placement process. In designing
27 service interventions, generally recognized standards of the
28 professions involved in the process must be taken into
29 consideration.

30 (6) After jurisdiction attaches, all case plans must
31 be filed with the court and a copy provided to all the

Bill No. CS for CS for SB 1666

Amendment No. ____

1 ~~parents, caregivers, or legal custodians of the child, to the~~
2 ~~representative of the guardian ad litem program if the program~~
3 ~~has been appointed, and to all other parties whose whereabouts~~
4 ~~are known, not less than 72 hours before the disposition~~
5 ~~hearing. All such case plans must be approved by the court.~~
6 The department shall also file with the court all case plans
7 prepared before jurisdiction of the court attached. If, after
8 review of the case plan, the court does not approve ~~accept~~ the
9 case plan, the court shall require the parties to make
10 necessary modifications to the plan. An amended plan must be
11 submitted to the court for review and approval within 30 days
12 after the hearing on the case plan. This amended plan must be
13 served on all parties whose whereabouts are known, at least 72
14 hours prior to filing with the court.

15 (7) The case plan must be limited to as short a period
16 as possible for the accomplishment of its provisions. Unless
17 extended, the plan expires no later than 12 months after the
18 date the child was initially removed from the home or the date
19 the case plan was accepted by the court, whichever comes
20 first.

21 (8) The case plan must meet applicable federal and
22 state requirements.

23 (9)(a) In each case in which the custody of a child
24 has been vested, either voluntarily or involuntarily, in the
25 department and the child has been placed in out-of-home care,
26 a case plan must be prepared within 60 days after the
27 department removes the child from the home, and shall be
28 submitted to the court before the disposition hearing, for the
29 court to review and approve ~~accept~~. If the preparation of a
30 case plan, in conference with the parents and other pertinent
31 parties, cannot be completed before the disposition hearing,

Bill No. CS for CS for SB 1666

Amendment No. ____

1 for good cause shown, the court may grant an extension not to
2 exceed 30 days and set a hearing to review and approve ~~accept~~
3 the case plan.

4 (b) The parent or parents, ~~legal custodians, or~~
5 ~~caregivers~~ may receive assistance from any person or social
6 service agency in the preparation of the case plan.

7 (c) The social service agency, the department, and the
8 court, when applicable, shall inform the parent or parents,
9 ~~legal custodians, or caregivers~~ of the right to receive such
10 assistance, including the right to assistance of counsel.

11 (d) Before the signing of the case plan, the
12 authorized agent of the department shall explain it to all
13 persons involved in its implementation, including, when
14 appropriate, the child.

15 (e) After the case plan has been agreed upon and
16 signed by the parties involved, a copy of the plan must be
17 given immediately to the parents, the department or agency,
18 the foster parents ~~or caregivers~~, the legal custodian, ~~the~~
19 ~~caregiver~~, the representative of the guardian ad litem program
20 if the program is appointed, and any other parties identified
21 by the court, including the child, if appropriate.

22 (f) The case plan may be amended at any time if all
23 parties are in agreement regarding the revisions to the plan
24 and the plan is submitted to the court with a memorandum of
25 explanation, if the court approves such amendment. The case
26 plan may also be amended by the court or upon motion of any
27 party at a hearing, based on competent evidence demonstrating
28 the need for the amendment. A copy of the amended plan must be
29 immediately given to the persons ~~parties~~ specified in
30 paragraph (e).

31 (10) A case plan must be prepared, but need not be

Bill No. CS for CS for SB 1666

Amendment No. ____

1 submitted to the court, for a child who will be in care no
2 longer than 30 days unless that child is placed in out-of-home
3 care a second time within a 12-month period.

4 Section 36. Subsection (1) and paragraph (a) of
5 subsection (4) of section 39.602, Florida Statutes, 1998
6 Supplement, are amended to read:

7 39.602 Case planning when parents, ~~legal custodians,~~
8 ~~or caregivers~~ do not participate and the child is in
9 out-of-home care.--

10 (1) In the event the parents, ~~legal custodians,~~ or
11 ~~caregivers~~ will not or cannot participate in preparation of a
12 case plan, the department shall submit a full explanation of
13 the circumstances and state the nature of its efforts to
14 secure such persons' participation in the preparation of a
15 case plan.

16 (4)(a) At least 72 hours prior to the hearing in which
17 the court will consider approval of the case plan ~~filing of a~~
18 ~~plan~~, all parties must be provided with a copy of the plan
19 developed by the department. If the location of one or both
20 parents is unknown, this must be documented in writing and
21 included in the plan submitted to the court. After the filing
22 of the plan, if the location of an absent parent becomes
23 known, that parent must be served with a copy of the plan.

24 Section 37. Subsections (2) and (3) of section 39.603,
25 Florida Statutes, 1998 Supplement, are amended to read:

26 39.603 Court approvals of case planning.--

27 (2) When the court determines that any of the elements
28 considered at the hearing related to the plan have not been
29 met, the court shall require the parties to make necessary
30 amendments to the plan. The amended plan must be submitted to
31 the court for review and approval within 30 days after the

Bill No. CS for CS for SB 1666

Amendment No. ____

1 ~~hearing a time certain specified by the court.~~ A copy of the
2 amended plan must also be provided to each party parent, if
3 the location of the party parent is known, at least 72 hours
4 prior to filing with the court.

5 (3) A parent who has not participated in the
6 development of a case plan must be served with a copy of the
7 plan developed by the department, if the parent can be
8 located, at least 72 ~~48~~ hours prior to the court hearing. Any
9 parent is entitled to, and may seek, a court review of the
10 plan prior to the initial judicial review and must be informed
11 of this right by the department at the time the department
12 serves the parent with a copy of the plan. If the location of
13 an absent parent becomes known to the department, the
14 department shall inform the parent of the right to a court
15 review at the time the department serves the parent with a
16 copy of the case plan.

17 Section 38. Section 39.701, Florida Statutes, 1998
18 Supplement, is amended to read:

19 39.701 Judicial review.--

20 (1)(a) The court shall have continuing jurisdiction in
21 accordance with this section and shall review the status of
22 the child at least every 6 months as required by this
23 subsection or more frequently if the court deems it necessary
24 or desirable.

25 (b) The court shall retain jurisdiction over a child
26 returned to his or her ~~its~~ parents, ~~caregivers,~~ or ~~legal~~
27 ~~guardians~~ for a minimum period of 6 months following the
28 reunification, but, at that time, based on a report of the
29 social service agency and the guardian ad litem, if one has
30 been appointed, and any other relevant factors, the court
31 shall make a determination as to whether supervision by the

Bill No. CS for CS for SB 1666

Amendment No. ____

1 department and the court's ~~its~~ jurisdiction shall continue or
2 be terminated.

3 (2)(a) The court shall review the status of the child
4 and shall hold a hearing as provided in this part at least
5 every 6 months until the child reaches permanency status. The
6 court may dispense with the attendance of the child at the
7 hearing, but may not dispense with the hearing or the presence
8 of other parties to the review unless before the review a
9 hearing is held before a citizen review panel.

10 (b) Citizen review panels may conduct hearings to
11 review the status of a child. The court shall select the cases
12 appropriate for referral to the citizen review panels and may
13 order the attendance of the parties at the review panel
14 hearings. However, any party may object to the referral of a
15 case to a citizen review panel. Whenever such an objection has
16 been filed with the court, the court shall review the
17 substance of the objection and may conduct the review itself
18 or refer the review to a citizen review panel. All parties
19 retain the right to take exception to the findings or
20 recommended orders of a citizen review panel in accordance
21 with Rule 1.490(h), Florida Rules of Civil Procedure.

22 (c) Notice of a hearing by a citizen review panel must
23 be provided as set forth in subsection (5). At the conclusion
24 of a citizen review panel hearing, each party may propose a
25 recommended order to the chairperson of the panel. Thereafter,
26 the citizen review panel shall submit its report, copies of
27 the proposed recommended orders, and a copy of the panel's
28 recommended order to the court. The citizen review panel's
29 recommended order must be limited to the dispositional options
30 available to the court in subsection (8). Each party may file
31 exceptions to the report and recommended order of the citizen

Bill No. CS for CS for SB 1666

Amendment No. ____

1 review panel in accordance with Rule 1.490, Florida Rules of
2 Civil Procedure.

3 (3)(a) The initial judicial review hearing must be
4 held no later than 90 days after the date of the disposition
5 hearing or after the date of the hearing at which the court
6 approves the case plan, whichever comes first, but in no event
7 shall the review be held later than 6 months after the date
8 the child was removed from the home. Citizen review panels
9 shall not conduct more than two consecutive reviews without
10 the child and the parties coming before the court for a
11 judicial review.

12 (b) If the citizen review panel recommends extending
13 ~~court extends~~ any case plan beyond 12 months, the court must
14 schedule a judicial review hearing to be conducted by the
15 court within 30 days after receiving the recommendation from
16 the citizen review panel ~~judicial reviews must be held at~~
17 ~~least every 6 months.~~

18 (c) If the child is placed in the custody of the
19 department or a licensed child-placing agency for the purpose
20 of adoptive placement, judicial reviews must be held at least
21 every 6 months until the adoption is finalized ~~adoptive~~
22 ~~placement, to determine the appropriateness of the current~~
23 ~~placement and the progress made toward adoptive placement.~~

24 (d) If the department and the court have established a
25 formal agreement that includes specific authorization for
26 particular cases, the department may conduct administrative
27 reviews instead of the judicial reviews for children in
28 out-of-home care. Notices of such administrative reviews must
29 be provided to all parties. However, an administrative review
30 may not be substituted for the first judicial review, and in
31 every case the court must conduct a judicial review at least

Bill No. CS for CS for SB 1666

Amendment No. ____

1 every 6 months. Any party dissatisfied with the results of an
2 administrative review may petition for a judicial review.

3 (e) The clerk of the circuit court shall schedule
4 judicial review hearings in order to comply with the mandated
5 times cited in this section.

6 (f) In each case in which a child has been voluntarily
7 placed with the licensed child-placing agency, the agency
8 shall notify the clerk of the court in the circuit where the
9 child resides of such placement within 5 working days.
10 Notification of the court is not required for any child who
11 will be in out-of-home care no longer than 30 days unless that
12 child is placed in out-of-home care a second time within a
13 12-month period. If the child is returned to the custody of
14 the parents, ~~caregiver, or legal custodian~~ before the
15 scheduled review hearing or if the child is placed for
16 adoption, the child-placing agency shall notify the court of
17 the child's return or placement within 5 working days, and the
18 clerk of the court shall cancel the review hearing.

19 (4) The court shall schedule the date, time, and
20 location of the next judicial review during the judicial
21 review hearing and shall list same in the judicial review
22 order.

23 (5) Notice of a judicial review hearing or a citizen
24 review panel hearing, and a copy of the motion for judicial
25 review, if any ~~including a statement of the dispositional~~
26 ~~alternatives available to the court~~, must be served by the
27 clerk of the court upon:

28 (a) The social service agency charged with the
29 supervision of care, custody, or guardianship of the child, if
30 that agency is not the movant.

31 (b) The foster parent or legal custodian ~~parents or~~

Bill No. CS for CS for SB 1666

Amendment No. ____

1 ~~caregivers~~ in whose home the child resides.

2 (c) The parents ~~parent, caregiver, or legal custodian~~
3 ~~from whom the care and custody of the child have been~~
4 ~~transferred.~~

5 (d) The guardian ad litem for the child, or the
6 representative of the guardian ad litem program if the program
7 has been appointed.

8 (e) Any preadoptive parent.

9 (f) Such other persons as the court may in its
10 discretion direct.

11

12 Service of notice is not required on any of the persons listed
13 in paragraphs (a)-(f) if the person was present at the
14 previous hearing during which the date, time, and location of
15 the hearing was announced.

16 (6)(a) Prior to every judicial review hearing or
17 citizen review panel hearing, the social service agency shall
18 make an investigation and social study concerning all
19 pertinent details relating to the child and shall furnish to
20 the court or citizen review panel a written report that
21 includes, but is not limited to:

22 1. A description of the type of placement the child is
23 in at the time of the hearing, including the safety of the
24 child and the continuing necessity for and appropriateness of
25 the placement.

26 2. Documentation of the diligent efforts made by all
27 parties to the case plan to comply with each applicable
28 provision of the plan.

29 3. The amount of fees assessed and collected during
30 the period of time being reported.

31 4. The services provided to the foster family or legal

Bill No. CS for CS for SB 1666

Amendment No. ____

1 custodian ~~caregivers~~ in an effort to address the needs of the
2 child as indicated in the case plan.

3 5. A statement that either:

4 a. The parent ~~or legal custodian~~, though able to do
5 so, did not comply substantially with the provisions of the
6 case plan, ~~and the agency recommendations; or~~

7 b. ~~A statement that~~ The parent ~~or legal custodian~~ did
8 substantially comply with the such provisions of the case
9 plan; or

10 c. The parent has partially complied with the
11 provisions of the case plan, with a summary of additional
12 progress needed and the agency recommendations.

13 6. A statement from the foster parent or legal
14 custodian ~~parents or caregivers~~ providing any material
15 evidence concerning the return of the child to the parent or
16 ~~parents or legal custodians.~~

17 7. A statement concerning the frequency, duration, and
18 results of the parent-child visitation, if any, and the agency
19 recommendations for an expansion or restriction of future
20 visitation.

21 8. The number of times a child has been removed from
22 his or her home and placed elsewhere, the number and types of
23 placements that have occurred, and the reason for the changes
24 in placement.

25 9. The number of times a child's educational placement
26 has been changed, the number and types of educational
27 placements which have occurred, and the reason for any change
28 in placement.

29 10. Copies of all medical, psychological, and
30 educational records that support the terms of the case plan
31 and that have been produced concerning the child, parents, or

Bill No. CS for CS for SB 1666

Amendment No. ____

1 any caregiver since the last judicial review hearing.

2 (b) A copy of the social service agency's written
3 report and the written report of the guardian ad litem must be
4 provided to the attorney of record of the ~~parent, parents, or~~
5 ~~legal custodians;~~ to the ~~parent, parents, or legal custodians;~~
6 to the foster parents or legal custodians caregivers; to each
7 citizen review panel; and to the guardian ad litem for the
8 child, or the representative of the guardian ad litem program
9 if the program has been appointed by the court, at least 72 ~~48~~
10 hours before the judicial review hearing, or citizen review
11 panel hearing. The requirement for providing parents ~~or legal~~
12 ~~custodians~~ with a copy of the written report does not apply to
13 those parents ~~or legal custodians~~ who have voluntarily
14 surrendered their child for adoption or who have had their
15 parental rights to the child terminated.

16 (c) In a case in which the child has been permanently
17 placed with the social service agency, the agency shall
18 furnish to the court a written report concerning the progress
19 being made to place the child for adoption. If the child
20 cannot be placed for adoption, a report on the progress made
21 by the child towards ~~in~~ alternative permanency goals or
22 placements, including, but not limited to, long-term foster
23 care, independent living, custody to a relative or other adult
24 ~~caregiver~~ approved by the court on a permanent basis with or
25 without legal guardianship, or custody to a foster parent or
26 legal custodian caregiver on a permanent basis with or without
27 legal guardianship, must be submitted to the court. The report
28 must be submitted to the court at least 72 ~~48~~ hours before
29 each scheduled judicial review.

30 (d) In addition to or in lieu of any written statement
31 provided to the court, the foster parent or legal custodian

Bill No. CS for CS for SB 1666

Amendment No. ____

1 ~~caregivers~~, or any preadoptive parent, shall be given the
2 opportunity to address the court with any information relevant
3 to the best interests of the child at any judicial review
4 hearing.

5 (7) The court and any citizen review panel shall take
6 into consideration the information contained in the social
7 services study and investigation and all medical,
8 psychological, and educational records that support the terms
9 of the case plan; testimony by the social services agency, the
10 parent ~~or legal custodian~~, the foster parent or legal
11 custodian ~~caregivers~~, the guardian ad litem if one has been
12 appointed for the child, and any other person deemed
13 appropriate; and any relevant and material evidence submitted
14 to the court, including written and oral reports to the extent
15 of their probative value. These reports and evidence may be
16 received by the court in its effort to determine the action to
17 be taken with regard to the child and may be relied upon to
18 the extent of its probative value, even though not competent
19 in an adjudicatory hearing. In its deliberations, the court
20 and any citizen review panel shall seek to determine:

21 (a) If the parent ~~or legal custodian~~ was advised of
22 the right to receive assistance from any person or social
23 service agency in the preparation of the case plan.

24 (b) If the parent ~~or legal custodian~~ has been advised
25 of the right to have counsel present at the judicial review or
26 citizen review hearings. If not so advised, the court or
27 citizen review panel shall advise the parent ~~or legal~~
28 ~~custodian~~ of such right.

29 (c) If a guardian ad litem needs to be appointed for
30 the child in a case in which a guardian ad litem has not
31 previously been appointed or if there is a need to continue a

Bill No. CS for CS for SB 1666

Amendment No. ____

1 guardian ad litem in a case in which a guardian ad litem has
2 been appointed.

3 (d) The compliance or lack of compliance of all
4 parties with applicable items of the case plan, including the
5 parents' compliance with child support orders.

6 (e) The compliance or lack of compliance with a
7 visitation contract between the parent, ~~caregiver, or legal~~
8 ~~custodian~~ and the social service agency for contact with the
9 child, including the frequency, duration, and results of the
10 parent-child visitation and the reason for any noncompliance.

11 (f) The compliance or lack of compliance of the
12 parent, ~~caregiver, or legal custodian~~ in meeting specified
13 financial obligations pertaining to the care of the child,
14 including the reason for failure to comply if such is the
15 case.

16 (g) The appropriateness of the child's current
17 placement, including whether the child is in a setting which
18 is as family-like and as close to the parent's home as
19 possible, consistent with the child's best interests and
20 special needs, and including maintaining stability in the
21 child's educational placement.

22 (h) A projected date likely for the child's return
23 home or other permanent placement.

24 (i) When appropriate, the basis for the unwillingness
25 or inability of the parent, ~~caregiver, or legal custodian~~ to
26 become a party to a case plan. The court and the citizen
27 review panel shall determine if the efforts of the social
28 service agency to secure party participation in a case plan
29 were sufficient.

30 (8)(a) Based upon the criteria set forth in subsection
31 (7) and the recommended order of the citizen review panel, if

Bill No. CS for CS for SB 1666

Amendment No. ____

1 any, the court shall determine whether or not the social
2 service agency shall initiate proceedings to have a child
3 declared a dependent child, return the child to the parent,
4 ~~legal custodian, or caregiver,~~ continue the child in
5 out-of-home care for a specified period of time, or initiate
6 termination of parental rights proceedings for subsequent
7 placement in an adoptive home. Modifications to the plan must
8 be handled as prescribed in s. 39.601. If the court finds that
9 the prevention or reunification efforts of the department will
10 allow the child to remain safely at home or be safely returned
11 to the home, the court shall allow the child to remain in or
12 return to the home after making a specific finding of fact
13 that the reasons for the creation of the case plan removal
14 have been remedied to the extent that the child's safety,
15 well-being, and physical, mental, and emotional health will
16 not be endangered.

17 (b) The court shall return the child to the custody of
18 the parents, ~~legal custodians, or caregivers~~ at any time it
19 determines that they have substantially complied with the case
20 plan, if the court is satisfied that reunification will not be
21 detrimental to the child's safety, well-being, and physical,
22 mental, and emotional health.

23 (c) If, in the opinion of the court, the social
24 service agency has not complied with its obligations as
25 specified in the written case plan, the court may find the
26 social service agency in contempt, shall order the social
27 service agency to submit its plans for compliance with the
28 agreement, and shall require the social service agency to show
29 why the child could not safely be returned to the home of the
30 parents, ~~legal custodians, or caregivers~~.

31 (d) The court may extend the time limitation of the

Bill No. CS for CS for SB 1666

Amendment No. ____

1 case plan, or may modify the terms of the plan, based upon
2 information provided by the social service agency, and the
3 guardian ad litem, if one has been appointed, the parent or
4 parents, and the foster parents or legal custodian, and any
5 other competent information on record demonstrating the need
6 for the amendment. If the court extends the time limitation of
7 the case plan, the court must make specific findings
8 concerning the frequency of past parent-child visitation, if
9 any, and the court may authorize the expansion or restriction
10 of future visitation. Modifications to the plan must be
11 handled as prescribed in s. 39.601. Any extension of a case
12 plan must comply with the time requirements and other
13 requirements specified by this chapter.

14 (e) If, at any judicial review, the court finds that
15 the parents have failed to substantially comply with the case
16 plan to the degree that further reunification efforts are
17 without merit and not in the best interest of the child, it
18 may authorize the filing of a petition for termination of
19 parental rights, whether or not the time period as contained
20 in the case plan for substantial compliance has elapsed.

21 (f) No later than 12 months after the date that the
22 child was placed in shelter care, the court shall conduct a
23 judicial review to plan for the child's permanency. At this
24 hearing, if the child is not returned to the physical custody
25 of the parents, ~~caregivers, or legal custodians~~, the case plan
26 may be extended with the same goals only if the court finds
27 that the situation of the child is so extraordinary that the
28 plan should be extended. The case plan must document steps the
29 department is taking to find an adoptive parent or other
30 permanent living arrangement for the child.

31 (g) The court may issue a protective order in

Bill No. CS for CS for SB 1666

Amendment No. ____

1 assistance, or as a condition, of any other order made under
2 this part. In addition to the requirements included in the
3 case plan, the protective order may set forth requirements
4 relating to reasonable conditions of behavior to be observed
5 for a specified period of time by a person or agency who is
6 before the court; and such order may require any such person
7 or agency to make periodic reports to the court containing
8 such information as the court in its discretion may prescribe.

9 Section 39. Paragraphs (g) and (h) of subsection (5)
10 of section 39.702, Florida Statutes, 1998 Supplement, are
11 amended to read:

12 39.702 Citizen review panels.--

13 (5) The independent not-for-profit agency authorized
14 to administer each citizen review panel shall:

15 (g) Establish policies to ensure adequate
16 communication with the parent, ~~caregiver, or legal custodian,~~
17 the foster parent or legal custodian ~~caregiver~~, the guardian
18 ad litem, and any other person deemed appropriate.

19 (h) Establish procedures that encourage attendance and
20 participation of interested persons and parties, including the
21 ~~biological~~ parents, foster parents, or legal custodian
22 ~~caregivers, or a relative or nonrelative~~ with whom the child
23 is placed, at citizen review hearings.

24 Section 40. Subsection (2) of section 39.703, Florida
25 Statutes, 1998 Supplement, is amended to read:

26 39.703 Initiation of termination of parental rights
27 proceedings.--

28 (2) If, at the time of the 12-month judicial review
29 hearing, a child is not returned to the physical custody of
30 the parents, ~~caregivers, or legal custodians,~~ the social
31 service agency shall initiate termination of parental rights

Bill No. CS for CS for SB 1666

Amendment No. ____

1 proceedings under this chapter within 30 days. Only if the
2 court finds that the situation of the child is so
3 extraordinary and that the best interests of the child will be
4 met by such action at the time of the judicial review may the
5 case plan be extended. If the court decides to extend the
6 plan, the court shall enter detailed findings justifying the
7 decision to extend, as well as the length of the extension. A
8 termination of parental rights petition need not be filed if:
9 the child is being cared for by a relative who chooses not to
10 adopt the child but who is willing, able, and suitable to
11 serve as the legal custodian for the child until the child
12 reaches 18 years of age; the court determines that filing such
13 a petition would not be in the best interests of the child; or
14 the state has not provided the child's parent family, when
15 reasonable efforts to return a child are required, consistent
16 with the time period in the state's case plan, such services
17 as the state deems necessary for the safe return of the child
18 to his or her home. Failure to initiate termination of
19 parental rights proceedings at the time of the 12-month
20 judicial review or within 30 days after such review does not
21 prohibit initiating termination of parental rights proceedings
22 at any other time.

23 Section 41. Section 39.704, Florida Statutes, 1998
24 Supplement, is amended to read:

25 39.704 Exemptions from judicial review.--Judicial
26 review does not apply to:

27 (1) Minors who have been placed in adoptive homes by
28 ~~the department or by~~ a licensed child-placing agency; or

29 (2) Minors who are refugees or entrants to whom
30 federal regulations apply and who are in the care of a social
31 service agency.

Bill No. CS for CS for SB 1666

Amendment No. ____

1 Section 42. Paragraphs (a), (b), and (d) of subsection
2 (3) and subsection (6) of section 39.801, Florida Statutes,
3 1998 Supplement, are amended to read:

4 39.801 Procedures and jurisdiction; notice; service of
5 process.--

6 (3) Before the court may terminate parental rights, in
7 addition to the other requirements set forth in this part, the
8 following requirements must be met:

9 (a) Notice of the date, time, and place of the
10 advisory hearing for the petition to terminate parental rights
11 and a copy of the petition must be personally served upon the
12 following persons, specifically notifying them that a petition
13 has been filed:

- 14 1. The parents of the child.
- 15 2. The ~~caregivers~~ or legal custodians of the child.
- 16 3. If the parents who would be entitled to notice are
17 dead or unknown, a living relative of the child, unless upon
18 diligent search and inquiry no such relative can be found.
- 19 4. Any person who has physical custody of the child.
- 20 5. Any grandparent entitled to priority for adoption
21 under s. 63.0425.
- 22 6. Any prospective parent who has been identified
23 under s. 39.503 or s. 39.803.
- 24 7. The guardian ad litem for the child or the
25 representative of the guardian ad litem program, if the
26 program has been appointed.

27
28 The document containing the notice to respond or appear must
29 contain, in type at least as large as the type in the balance
30 of the document, the following or substantially similar
31 language: "FAILURE TO PERSONALLY APPEAR AT THIS ADVISORY

Bill No. CS for CS for SB 1666

Amendment No. ____

1 HEARING CONSTITUTES CONSENT TO THE TERMINATION OF PARENTAL
 2 RIGHTS OF THIS CHILD (OR CHILDREN). IF YOU FAIL TO APPEAR ON
 3 THE DATE AND TIME SPECIFIED, YOU MAY LOSE ALL LEGAL RIGHTS AS
 4 A PARENT TO THE CHILD OR CHILDREN NAMED IN THE PETITION
 5 ATTACHED TO THIS NOTICE."

6 (b) If a party person required to be served with
 7 notice as prescribed in paragraph (a) cannot be served, notice
 8 of hearings must be given as prescribed by the rules of civil
 9 procedure, and service of process must be made as specified by
 10 law or civil actions.

11 (d) If the person served with notice under this
 12 section fails to personally appear at the advisory hearing,
 13 the failure to personally appear shall constitute consent for
 14 termination of parental rights by the person given notice. If
 15 a parent appears for the advisory hearing and the court orders
 16 that parent to personally appear at the adjudicatory hearing
 17 for the petition for termination of parental rights, stating
 18 the date, time, and location of said hearing, then failure of
 19 that parent to personally appear at the adjudicatory hearing
 20 shall constitute consent for termination of parental rights.

21 (6) Subpoenas may be served within the state by any
 22 person over 18 years of age who is not a party to the
 23 proceeding and, in addition, may be served or executed by
 24 authorized agents of the department or of the guardian ad
 25 litem.

26 Section 43. Subsection (1), paragraph (b) of
 27 subsection (4), and subsection (8), of section 39.802, Florida
 28 Statutes, 1998 Supplement, are amended to read:

29 39.802 Petition for termination of parental rights;
 30 filing; elements.--

31 (1) All proceedings seeking an adjudication to

Bill No. CS for CS for SB 1666

Amendment No. ____

1 terminate parental rights pursuant to this chapter must be
2 initiated by the filing of an original petition by the
3 department, the guardian ad litem, ~~or~~ a licensed child-placing
4 agency, ~~or by~~ any other person who has knowledge of the facts
5 alleged or is informed of them and believes that they are
6 true.

7 (4) A petition for termination of parental rights
8 filed under this chapter must contain facts supporting the
9 following allegations:

10 (b) That the parents of the child were informed of
11 their right to counsel at all hearings that they attended
12 ~~attend~~ and that a dispositional order adjudicating the child
13 dependent was entered in any prior dependency proceeding
14 relied upon in offering a parent a case plan as described in
15 s. 39.806.

16 (8) ~~If Whenever~~ the department has entered into a case
17 plan with a parent with the goal of reunification, and a
18 petition for termination of parental rights based on the same
19 facts as are covered in the case plan is filed prior to the
20 time agreed upon in the case plan for the performance of the
21 case plan, then the petitioner must allege and prove by clear
22 and convincing evidence that the parent has materially
23 breached the provisions of the case plan.

24 Section 44. Section 39.805, Florida Statutes, 1998
25 Supplement, is amended to read:

26 39.805 No answer required.--No answer to the petition
27 or any other pleading need be filed by any child or parent,
28 ~~caregiver, or legal custodian,~~ but any matters which might be
29 set forth in an answer or other pleading may be pleaded orally
30 before the court or filed in writing as any such person may
31 choose. Notwithstanding the filing of any answer or any

Bill No. CS for CS for SB 1666

Amendment No. ____

1 pleading, the child or parent shall, prior to the adjudicatory
2 hearing, be advised by the court of the right to counsel and
3 shall be given an opportunity to deny the allegations in the
4 petition for termination of parental rights or to enter a plea
5 to allegations in the petition before the court.

6 Section 45. Paragraphs (b), (d), (e), and (h) of
7 subsection (1) of section 39.806, Florida Statutes, 1998
8 Supplement, are amended to read:

9 39.806 Grounds for termination of parental rights.--

10 (1) The department, the guardian ad litem, a licensed
11 child-placing agency, or any person who has knowledge of the
12 facts alleged or who is informed of said facts and believes
13 that they are true, may petition for the termination of
14 parental rights under any of the following circumstances:

15 (b) When the identity or location of the parent or
16 parents is unknown and cannot be ascertained by diligent
17 search within 60 ~~90~~ days.

18 (d) When the parent of a child is incarcerated in a
19 state or federal correctional institution and either:

20 1. The period of time for which the parent is expected
21 to be incarcerated will constitute a substantial portion of
22 the period of time before the child will attain the age of 18
23 years;

24 2. The incarcerated parent has been determined by the
25 court to be a violent career criminal as defined in s.
26 775.084, a habitual violent felony offender as defined in s.
27 775.084, or a sexual predator as defined in s. 775.21; has
28 been convicted of first degree or second degree murder in
29 violation of s. 782.04 or a sexual battery that constitutes a
30 capital, life, or first degree felony violation of s. 794.011;
31 or has been convicted of an offense in another jurisdiction

Bill No. CS for CS for SB 1666

Amendment No. ____

1 which is substantially similar to one of the offenses listed
2 in this paragraph. As used in this section, the term
3 "substantially similar offense" means any offense that is
4 substantially similar in elements and penalties to one of
5 those listed in this paragraph, and that is in violation of a
6 law of any other jurisdiction, whether that of another state,
7 the District of Columbia, the United States or any possession
8 or territory thereof, or any foreign jurisdiction; or and

9 3. The court determines by clear and convincing
10 evidence that continuing the parental relationship with the
11 incarcerated parent would be harmful to the child and, for
12 this reason, that termination of the parental rights of the
13 incarcerated parent is in the best interest of the child.

14 (e) A petition for termination of parental rights may
15 also be filed when a child has been adjudicated dependent, a
16 case plan has been filed with the court, and the child
17 continues to be abused, neglected, or abandoned by the
18 parents. In this case, the failure of the parents to
19 substantially comply for a period of 12 months after an
20 adjudication of the child as a dependent child or the child's
21 placement into shelter care, whichever came first, constitutes
22 evidence of continuing abuse, neglect, or abandonment unless
23 the failure to substantially comply with the case plan was due
24 either to the lack of financial resources of the parents or to
25 the failure of the department to make reasonable efforts to
26 reunify the parent and child family. Such 12-month period may
27 begin to run only after the child's placement into shelter
28 care or the entry of a disposition order placing the custody
29 of the child with the department or a person other than the
30 parent and the approval by the court of a case plan with a
31 goal of reunification with the parent, whichever came first.

Bill No. CS for CS for SB 1666

Amendment No. ____

1 (h) When the parent or parents have committed murder
2 or voluntary manslaughter of another child ~~of the parent~~, or a
3 felony assault that results in serious bodily injury to the
4 child or another child ~~of the parent~~, or aided or abetted,
5 attempted, conspired, or solicited to commit such a murder or
6 voluntary manslaughter or felony assault.

7 Section 46. Paragraphs (a) and (d) of subsection (1)
8 and paragraph (b) of subsection (2) of section 39.807, Florida
9 Statutes, 1998 Supplement, are amended to read:

10 39.807 Right to counsel; guardian ad litem.--

11 (1)(a) At each stage of the proceeding under this
12 part, the court shall advise the parent of the right to have
13 counsel present. The court shall appoint counsel for indigent
14 parents ~~persons~~. The court shall ascertain whether the right
15 to counsel is understood and, where appropriate, is knowingly
16 and intelligently waived. The court shall enter its findings
17 in writing with respect to the appointment or waiver of
18 counsel for indigent parents ~~parties~~.

19 (d) This subsection does not apply to any parent who
20 has voluntarily executed a written surrender of the child and
21 consent to the entry of a court order therefor ~~and who does~~
22 ~~not deny the allegations of the petition~~.

23 (2)

24 (b) The guardian ad litem has the following
25 responsibilities:

26 1. To investigate the allegations of the petition and
27 any subsequent matters arising in the case and, unless excused
28 by the court, to file a written report. This report must
29 include a statement of the wishes of the child and the
30 recommendations of the guardian ad litem and must be provided
31 to all parties and the court at least 72 ~~48~~ hours before the

Bill No. CS for CS for SB 1666

Amendment No. ____

1 disposition hearing.

2 2. To be present at all court hearings unless excused
3 by the court.

4 3. To represent the interests of the child until the
5 jurisdiction of the court over the child terminates or until
6 excused by the court.

7 Section 47. Subsections (4) and (5) of section 39.808,
8 Florida Statutes, 1998 Supplement, are amended to read:

9 39.808 Advisory hearing; pretrial status conference.--

10 (4) An advisory hearing is not required ~~may not be~~
11 ~~held~~ if a petition is filed seeking an adjudication for
12 termination of voluntarily to terminate parental rights based
13 on a voluntary surrender of parental rights. Adjudicatory
14 hearings for petitions for voluntary termination must be held
15 within 21 days after the filing of the petition. Notice of the
16 use of this subsection must be filed with the court at the
17 same time as the filing of the petition to terminate parental
18 rights.

19 (5) Not less than 10 days before the adjudicatory
20 hearing on a petition for involuntary termination of parental
21 rights, the court shall conduct a pretrial ~~prehearing~~ status
22 conference to determine the order in which each party may
23 present witnesses or evidence, the order in which
24 cross-examination and argument shall occur, and any other
25 matters that may aid in the conduct of the adjudicatory
26 hearing to prevent any undue delay in the conduct of the
27 adjudicatory hearing.

28 Section 48. Subsections (2), (4), (7), and (8), and
29 paragraph (e) of subsection (6) of section 39.811, Florida
30 Statutes, 1998 Supplement, are amended to read:

31 39.811 Powers of disposition; order of disposition.--

Bill No. CS for CS for SB 1666

Amendment No. ____

1 (2) If the child is in the ~~out-of-home care~~ custody of
2 the department and the court finds that the grounds for
3 termination of parental rights have been established by clear
4 and convincing evidence, the court shall, by order, place the
5 child in the custody of the department or ~~for the purpose of~~
6 ~~adoption or place the child in the custody of~~ a licensed
7 child-placing agency for the purpose of adoption.

8 (4) If the child is neither in the custody of the
9 department nor in the custody of a parent and the court finds
10 that the grounds for termination of parental rights have been
11 established for either or both parents, the court shall enter
12 an order terminating parental rights for the parent or parents
13 for whom the grounds for termination have been established and
14 placing the child with the department or an appropriate legal
15 custodian. If the parental rights of both parents have been
16 terminated, or if the parental rights of only one parent have
17 been terminated and the court makes specific findings based on
18 evidence presented that placement with the remaining parent is
19 likely to be harmful to the child, the court may order that
20 the child be placed with a legal custodian other than the
21 department after hearing evidence of the suitability of such
22 intended placement. Suitability of the intended placement
23 includes the fitness and capabilities of the proposed legal
24 custodian to function as the primary caregiver for a
25 particular child; and the compatibility of the child with the
26 home in which the child is intended to be placed. If the
27 court orders that a child be placed with a legal custodian
28 under this subsection, the court shall appoint such legal
29 custodian as the guardian for the child as provided in s.
30 744.3021. The court may modify the order placing the child in
31 the custody of the legal custodian and revoke the guardianship

Bill No. CS for CS for SB 1666

Amendment No. ____

1 established under s. 744.3021 if the court subsequently finds
2 ~~that a party to the proceeding other than a parent whose~~
3 ~~rights have been terminated has shown a material change in~~
4 ~~circumstances which causes~~ the placement to be no longer in
5 the best interest of the child.

6 (6) The parental rights of one parent may be severed
7 without severing the parental rights of the other parent only
8 under the following circumstances:

9 (e) If the parent whose rights are being terminated
10 meets any of the criteria specified in s. 39.806(1)(d) and
11 (f)-(i).

12 (7)(a) The termination of parental rights does not
13 affect the rights of grandparents unless the court finds that
14 continued visitation is not in the best interests of the child
15 or that such visitation would interfere with the permanency
16 ~~goals of permanency planning~~ for the child.

17 (b) If the court terminates parental rights, it may,
18 as appropriate, order that the parents, siblings, or relatives
19 of the parent whose rights are terminated be allowed to
20 maintain some communication or contact with the child pending
21 adoption if the best interests of the child support this
22 continued communication or contact, except as provided in
23 paragraph (a). If the court orders such continued
24 communication or contact, which may include, but is not
25 limited to, visits, letters, and cards or telephone calls, the
26 nature and frequency of the communication or contact must be
27 set forth in written order and may be reviewed upon motion of
28 any party, or including, for purposes of this subsection, an
29 identified prospective adoptive parent. If a child is placed
30 for adoption, the nature and frequency of the communication or
31 contact must be reviewed by the court at the time the child is

Bill No. CS for CS for SB 1666

Amendment No. ____

1 placed for adoption ~~adopted~~.

2 (8) If the court terminates parental rights, it shall,
3 in its order of disposition, provide for a hearing, to be
4 scheduled no later than 30 days after the date of disposition,
5 in which the department or the licensed child-placing agency
6 shall provide to the court an amended case a plan which
7 identifies the for permanency goal for the child. Reasonable
8 efforts must be made to place the child in a timely manner in
9 accordance with the permanency plan and to complete whatever
10 steps are necessary to finalize the permanent placement of the
11 child. Thereafter, until the adoption of the child is
12 finalized or the child reaches the age of 18 years, whichever
13 occurs first, the court shall hold hearings at 6-month
14 intervals to review the progress being made toward permanency
15 for the child.

16 Section 49. Subsection (1) and paragraph (a) of
17 subsection (6) of section 39.814, Florida Statutes, 1998
18 Supplement, are amended to read:

19 39.814 Oaths, records, and confidential information.--

20 (1) The judge, clerks or deputy clerks, and or
21 authorized agents of the department shall each have the power
22 to administer oaths and affirmations.

23 (6) No court record of proceedings under this part
24 shall be admissible in evidence in any other civil or criminal
25 proceeding, except that:

26 (a) Orders terminating the rights of a parent are
27 admissible in evidence in subsequent adoption proceedings
28 relating to the child and in subsequent termination of
29 parental rights proceedings concerning a sibling of the child.

30 Section 50. Subsection (3) of section 39.815, Florida
31 Statutes, 1998 Supplement, is amended to read:

Bill No. CS for CS for SB 1666

Amendment No. ____

1 39.815 Appeal.--

2 (3) The taking of an appeal does not operate as a
3 supersedeas in any case unless the court so orders. However, a
4 termination of parental rights order with placement of the
5 child with a licensed child-placing agency or the department
6 for subsequent adoption is suspended while the appeal is
7 pending, but the child shall continue in an out-of-home
8 placement custody under the order until the appeal is decided.

9 Section 51. Subsection (3) of section 39.822, Florida
10 Statutes, 1998 Supplement, is amended to read:

11 39.822 Appointment of guardian ad litem for abused,
12 abandoned, or neglected child.--

13 (3) The guardian ad litem or the program
14 representative shall review all disposition recommendations
15 and changes in placements, and must be present at all critical
16 stages of the dependency proceeding or submit a written report
17 of recommendations to the court. Written reports must be filed
18 with the court and served on all parties whose whereabouts are
19 known at least 72 hours prior to the hearing.

20 Section 52. Subsection (1) of section 63.0427, Florida
21 Statutes, 1998 Supplement, is amended to read:

22 63.0427 Adopted minor's right to continued
23 communication or contact with siblings.--

24 (1) A child whose parents have had their parental
25 rights terminated and whose custody has been awarded to the
26 department pursuant to s. 39.811 ~~39.469~~, and who is the
27 subject of a petition for adoption under this chapter, shall
28 have the right to have the court consider the appropriateness
29 of postadoption communication or contact, including, but not
30 limited to, visits, letters and cards, or telephone calls,
31 with his or her siblings who are not included in the petition

Bill No. CS for CS for SB 1666

Amendment No. ____

1 for adoption. The court shall determine if the best interests
2 of the child support such continued communication or contact
3 and shall consider the following in making such determination:

4 (a) Any orders of the court pursuant to s. 39.811(7)
5 ~~39.469(7)~~.

6 (b) Recommendations of the department, the foster
7 parents if other than the adoptive parents, and the guardian
8 ad litem.

9 (c) Statements of prospective adoptive parents.

10 (d) Any other information deemed relevant and material
11 by the court.

12

13 If the court determines that the child's best interests will
14 be served by postadoption communication or contact with any
15 sibling, the court shall so order, stating the nature and
16 frequency for the communication or contact. This order shall
17 be made a part of the final adoption order, but in no event
18 shall continuing validity of the adoption be contingent upon
19 such postadoption communication or contact, nor shall the
20 ability of the adoptive parents and child to change residence
21 within or outside the State of Florida be impaired by such
22 communication or contact.

23 Section 53. Paragraph (d) of subsection (1) of section
24 419.001, Florida Statutes, 1998 Supplement, is amended to
25 read:

26 419.001 Site selection of community residential
27 homes.--

28 (1) For the purposes of this section, the following
29 definitions shall apply:

30 (d) "Resident" means any of the following: a frail
31 elder as defined in s. 400.618; a physically disabled or

Bill No. CS for CS for SB 1666

Amendment No. ____

1
2 Prior serious felony points: If the offender has a primary
3 offense or any additional offense ranked in level 8, level 9,
4 or level 10, and one or more prior serious felonies, a single
5 assessment of 30 points shall be added. For purposes of this
6 section, a prior serious felony is an offense in the
7 offender's prior record that is ranked in level 8, level 9, or
8 level 10 under s. 921.0022 or s. 921.0023 and for which the
9 offender is serving a sentence of confinement, supervision, or
10 other sanction or for which the offender's date of release
11 from confinement, supervision, or other sanction, whichever is
12 later, is within 3 years before the date the primary offense
13 or any additional offense was committed.

14
15 Prior capital felony points: If the offender has one or more
16 prior capital felonies in the offender's criminal record,
17 points shall be added to the subtotal sentence points of the
18 offender equal to twice the number of points the offender
19 receives for the primary offense and any additional offense.
20 A prior capital felony in the offender's criminal record is a
21 previous capital felony offense for which the offender has
22 entered a plea of nolo contendere or guilty or has been found
23 guilty; or a felony in another jurisdiction which is a capital
24 felony in that jurisdiction, or would be a capital felony if
25 the offense were committed in this state.

26
27 Possession of a firearm, semiautomatic firearm, or machine
28 gun: If the offender is convicted of committing or attempting
29 to commit any felony other than those enumerated in s.
30 775.087(2) while having in his possession: a firearm as
31 defined in s. 790.001(6), an additional 18 sentence points are

Bill No. CS for CS for SB 1666

Amendment No. ____

1 assessed; or if the offender is convicted of committing or
2 attempting to commit any felony other than those enumerated in
3 s. 775.087(3) while having in his possession a semiautomatic
4 firearm as defined in s. 775.087(3) or a machine gun as
5 defined in s. 790.001(9), an additional 25 sentence points are
6 assessed.

7

8 Sentencing multipliers:

9

10 Drug trafficking: If the primary offense is drug trafficking
11 under s. 893.135, the subtotal sentence points are multiplied,
12 at the discretion of the court, for a level 7 or level 8
13 offense, by 1.5. The state attorney may move the sentencing
14 court to reduce or suspend the sentence of a person convicted
15 of a level 7 or level 8 offense, if the offender provides
16 substantial assistance as described in s. 893.135(4).

17

18 Law enforcement protection: If the primary offense is a
19 violation of the Law Enforcement Protection Act under s.
20 775.0823(2), the subtotal sentence points are multiplied by
21 2.5. If the primary offense is a violation of s. 775.0823(3),
22 (4), (5), (6), (7), or (8), the subtotal sentence points are
23 multiplied by 2.0. If the primary offense is a violation of s.
24 784.07(3) or s. 775.0875(1), or of the Law Enforcement
25 Protection Act under s. 775.0823(9) or (10), the subtotal
26 sentence points are multiplied by 1.5.

27

28 Grand theft of a motor vehicle: If the primary offense is
29 grand theft of the third degree involving a motor vehicle and
30 in the offender's prior record, there are three or more grand
31 thefts of the third degree involving a motor vehicle, the

Bill No. CS for CS for SB 1666

Amendment No. ____

1 subtotal sentence points are multiplied by 1.5.

2

3 Criminal street gang member: If the offender is convicted of
4 the primary offense and is found to have been a member of a
5 criminal street gang at the time of the commission of the
6 primary offense pursuant to s. 874.04, the subtotal sentence
7 points are multiplied by 1.5.

8

9 Domestic violence in the presence of a child: If the offender
10 is convicted of the primary offense and the primary offense is
11 a crime of domestic violence, as defined in s. 741.28, which
12 was committed in the presence of a child under 16 years of age
13 who is a family household member as defined in s. 741.28(2)
14 with the victim or perpetrator, the subtotal sentence points
15 are multiplied, ~~at the discretion of the court,~~ by 1.5.

16 Section 55. Paragraph (a) of subsection (2), paragraph
17 (a) of subsection (4), and paragraph (b) of subsection (9) of
18 section 784.046, Florida Statutes, are amended to read:

19 784.046 Action by victim of repeat violence for
20 protective injunction; powers and duties of court and clerk of
21 court; filing and form of petition; notice and hearing;
22 temporary injunction; issuance; statewide verification system;
23 enforcement.--

24 (2) There is created a cause of action for an
25 injunction for protection in cases of repeat violence.

26 (a) Any person who is the victim of repeat violence or
27 the parent or legal guardian of any minor child who is living
28 at home and who seeks an injunction for protection against
29 repeat violence on behalf of the minor child has standing in
30 the circuit court to file a sworn petition for an injunction
31 for protection against repeat violence.

Bill No. CS for CS for SB 1666

Amendment No. ____

1 (4)(a) The sworn petition shall allege the incidents
2 of repeat violence and shall include the specific facts and
3 circumstances which form the basis upon which relief is
4 sought. With respect to a minor child who is living at home,
5 the parent or legal guardian of the minor child must have been
6 an eye-witness to, or have direct physical evidence or
7 affidavits from eye-witnesses of, the specific facts and
8 circumstances which form the basis upon which relief is
9 sought.

10 (9)

11 (b) If the respondent is arrested by a law enforcement
12 officer under s. 901.15(10)~~(8)~~ for committing an act of repeat
13 violence in violation of a repeat violence injunction for
14 protection, the respondent shall be held in custody until
15 brought before the court as expeditiously as possible for the
16 purpose of enforcing the injunction and for admittance to bail
17 in accordance with chapter 903 and the applicable rules of
18 criminal procedure, pending a hearing.

19 Section 56. Subsection (7) of section 901.15, Florida
20 Statutes, 1998 Supplement, is amended, subsections (8) through
21 (12) are renumbered as subsections (10) through (14),
22 respectively, and new subsections (8) and (9) are added to
23 said section, to read:

24 901.15 When arrest by officer without warrant is
25 lawful.--A law enforcement officer may arrest a person without
26 a warrant when:

27 (7) There is probable cause to believe that the person
28 has committed+

29 ~~(a)~~ an act of domestic violence, as defined in s.
30 741.28.

31 ~~(b) Child abuse, as defined in s. 827.04(2) and (3).~~

Bill No. CS for CS for SB 1666

Amendment No. ____

1 ~~(c) Any battery upon another person, as defined in s.~~
2 ~~784.03.~~

3 ~~(d) An act of criminal mischief or a graffiti-related~~
4 ~~offense as described in s. 806.13.~~

5
6 ~~With respect to an arrest for an act of domestic violence, The~~
7 ~~decision to arrest shall not require consent of the victim or~~
8 ~~consideration of the relationship of the parties. It is the~~
9 ~~public policy of this state to strongly discourage arrest and~~
10 ~~charges of both parties for domestic violence on each other~~
11 ~~and to encourage training of law enforcement and prosecutors~~
12 ~~in this area. A law enforcement officer who acts in good faith~~
13 ~~and exercises due care in making an arrest under this~~
14 ~~subsection, under s. 741.31(4) or s. 784.047, or pursuant to a~~
15 ~~foreign order of protection accorded full faith and credit~~
16 ~~pursuant to s. 741.315, is immune from civil liability that~~
17 ~~otherwise might result by reason of his or her action.~~

18 (8) There is probable cause to believe that the person
19 has committed child abuse, as defined in s. 827.03. The
20 decision to arrest shall not require consent of the victim or
21 consideration of the relationship of the parties. It is the
22 public policy of this state to protect abused children by
23 strongly encouraging the arrest and prosecution of persons who
24 commit child abuse. A law enforcement officer who acts in good
25 faith and exercises due care in making an arrest under this
26 subsection is immune from civil liability that otherwise might
27 result by reason of his or her action.

28 (9) There is probable cause to believe that the person
29 has committed:

30 (a) Any battery upon another person, as defined in s.
31 784.03.

Bill No. CS for CS for SB 1666

Amendment No. ____

1 (b) An act of criminal mischief or a graffiti-related
2 offense as described in s. 806.13.

3 Section 57. Paragraph (b) of subsection (9) of section
4 20.165, Florida Statutes, is amended to read:

5 20.165 Department of Business and Professional
6 Regulation.--There is created a Department of Business and
7 Professional Regulation.

8 (9)

9 (b) All employees certified under chapter 943 as law
10 enforcement officers shall have felony arrest powers under s.
11 901.15(13)(~~11~~) and shall have all the powers of deputy
12 sheriffs to:

13 1. Investigate, enforce, and prosecute, throughout the
14 state, violations and violators of:

15 a. Parts I and II of chapter 210; part VII of chapter
16 559; and chapters 561-569; and the rules promulgated
17 thereunder, as well as other state laws which the division,
18 all state law enforcement officers, or beverage enforcement
19 agents are specifically authorized to enforce.

20 b. All other state laws, provided that the employee
21 exercises the powers of a deputy sheriff, only after
22 consultation and in coordination with the appropriate local
23 sheriff's office, and only if the violation could result in an
24 administrative proceeding against a license or permit issued
25 by the division.

26 2. Enforce all criminal laws of the state within
27 specified jurisdictions when the division is a party to a
28 written mutual aid agreement with a state agency, sheriff, or
29 municipal police department, or when the division participates
30 in the Florida Mutual Aid Plan during a declared state
31 emergency.

Bill No. CS for CS for SB 1666

Amendment No. ____

1 Section 58. Subsection (2) of section 570.073, Florida
2 Statutes, 1998 Supplement, is amended to read:

3 570.073 Department of Agriculture and Consumer
4 Services, law enforcement officers.--

5 (2) Each law enforcement officer shall meet the
6 qualifications of law enforcement officers under s. 943.13 and
7 shall be certified as a law enforcement officer by the
8 Department of Law Enforcement under the provisions of chapter
9 943. Upon certification, each law enforcement officer is
10 subject to and shall have the same arrest and other authority
11 provided for law enforcement officers generally in chapter 901
12 and jurisdiction as provided in subsection (1). Each officer
13 shall also have arrest authority as provided for state law
14 enforcement officers in s. 901.15(13)~~(11)~~.

15 Section 59. Subsection (2) of section 741.29, Florida
16 Statutes, is amended to read:

17 741.29 Domestic violence; investigation of incidents;
18 notice to victims of legal rights and remedies; reporting.--

19 (2) When a law enforcement officer investigates an
20 allegation that an incident of domestic violence has occurred,
21 the officer shall handle the incident pursuant to the arrest
22 policy provided in s. 901.15(7)~~(a)~~, and as developed in
23 accordance with subsections (3), (4), and (5). Whether or not
24 an arrest is made, the officer shall make a written police
25 report that is complete and clearly indicates the alleged
26 offense was an incident of domestic violence. Such report
27 shall be given to the officer's supervisor and filed with the
28 law enforcement agency in a manner that will permit data on
29 domestic violence cases to be compiled. Such report must
30 include:

31 (a) A description of physical injuries observed, if

Bill No. CS for CS for SB 1666

Amendment No. ____

1 any.

2 (b) If a law enforcement officer decides not to make
3 an arrest or decides to arrest two or more parties, the
4 officer shall include in the report the grounds for not
5 arresting anyone or for arresting two or more parties.

6 (c) A statement which indicates that a copy of the
7 legal rights and remedies notice was given to the victim.

8
9 Whenever possible, the law enforcement officer shall obtain a
10 written statement from the victim and witnesses concerning the
11 alleged domestic violence. The officer shall submit the report
12 to the supervisor or other person to whom the employer's rules
13 or policies require reports of similar allegations of criminal
14 activity to be made. The law enforcement agency shall, without
15 charge, send a copy of the initial police report, as well as
16 any subsequent, supplemental, or related report, which
17 excludes victim/witness statements or other materials that are
18 part of an active criminal investigation and are exempt from
19 disclosure under chapter 119, to the nearest locally certified
20 domestic violence center within 24 hours after the agency's
21 receipt of the report. The report furnished to the domestic
22 violence center must include a narrative description of the
23 domestic violence incident.

24 Section 60. Subsection (1) of section 943.1702,
25 Florida Statutes, is amended to read:

26 943.1702 Collection of statistics on domestic
27 violence.--

28 (1) In compiling the Department of Law Enforcement
29 Crime in Florida Annual Report, the department shall include
30 the results of the arrest policy provided for under s.
31 901.15(7)(~~a~~) with respect to domestic violence to include:

Bill No. CS for CS for SB 1666

Amendment No. ____

1 separate statistics on occurrences of and arrests for domestic
2 versus nondomestic violence, such as battery, aggravated
3 battery, assault, aggravated assault, sexual battery, the
4 illegal use of firearms, arson, homicide, murder,
5 manslaughter, or the attempt of any of the above.

6 Section 61. This act shall take effect July 1, 1999.

7

8

9 ===== T I T L E A M E N D M E N T =====

10 And the title is amended as follows:

11 Delete everything before the enacting clause

12

13 and insert:

14

A bill to be entitled

15

An act relating to child protection; amending

16

s. 39.001, F.S., relating to purpose and intent

17

of ch. 39, F.S.; conforming and clarifying

18

provisions and references; creating s. 39.0014,

19

F.S.; providing responsibilities of public

20

agencies; amending s. 39.0015, F.S., relating

21

to child abuse prevention training in the

22

district school system; amending s. 39.01,

23

F.S.; revising and conforming definitions;

24

amending s. 39.011, F.S., relating to immunity

25

from liability; amending s. 39.0121, F.S.;

26

revising rulemaking authority; amending s.

27

39.013, F.S.; clarifying and conforming

28

provisions relating to procedures,

29

jurisdiction, and right to counsel; amending s.

30

39.0132, F.S.; reducing period the court must

31

preserve records pertaining to a dependent

Bill No. CS for CS for SB 1666

Amendment No. ____

1 child; providing for admission of termination
2 of parental rights orders as evidence in
3 subsequent proceedings; amending s. 39.0134,
4 F.S.; providing for imposition and enforcement
5 of liens for attorney's fees; amending s.
6 39.201, F.S.; clarifying provisions relating to
7 mandatory reports of child abuse, abandonment,
8 or neglect; amending s. 39.202, F.S.; revising
9 provisions relating to confidentiality of
10 reports and records; amending s. 39.203, F.S.;
11 clarifying provisions relating to immunity from
12 liability for reporting child abuse,
13 abandonment, or neglect; amending s. 39.206,
14 F.S., relating to imposition of administrative
15 fines for false reporting; amending ss. 39.301
16 and 39.302, F.S.; revising provisions relating
17 to initiation of protective investigation;
18 amending s. 39.3035, F.S., relating to child
19 advocacy centers; amending s. 39.304, F.S.,
20 relating to medical examination and treatment;
21 amending ss. 39.311, 39.312, and 39.313, F.S.,
22 relating to the Family Builders Program;
23 amending s. 39.395, F.S., relating to detaining
24 a child; amending s. 39.401, F.S., relating to
25 taking a child into custody; amending s.
26 39.402, F.S.; revising provisions relating to
27 placement in a shelter; providing for parents'
28 right to continuance of shelter hearing to
29 obtain counsel; requiring the shelter order to
30 require certain financial information from the
31 parent; providing timeframe for review of

Bill No. CS for CS for SB 1666

Amendment No. ____

1 shelter placement; amending s. 39.407, F.S.,
2 relating to medical and psychological
3 examinations; amending s. 39.501, F.S.,
4 relating to petition for dependency; amending
5 s. 39.502, F.S., relating to notice, process,
6 and service; amending s. 39.503, F.S., relating
7 to identifying or locating a parent; amending
8 s. 39.504, F.S., relating to injunction pending
9 disposition of petition; amending s. 39.506,
10 F.S.; revising provisions relating to
11 arraignment hearings; specifying when failure
12 of a person to appear constitutes consent to a
13 dependency adjudication; amending s. 39.507,
14 F.S., relating to adjudicatory hearings;
15 amending s. 39.508, F.S.; revising provisions
16 relating to disposition hearings and orders;
17 authorizing placement pending federal criminal
18 records check; requiring certain disclosures by
19 prospective and approved foster parents;
20 providing for permanency status of the child;
21 specifying conditions for termination of
22 departmental supervision and cessation of
23 judicial reviews; amending s. 39.5085, F.S.;
24 revising the department's authority to provide
25 a relative caregiver benefit; amending s.
26 39.509, F.S., relating to grandparents' rights;
27 amending s. 39.510, F.S., relating to appeal;
28 amending s. 39.601, F.S.; revising and
29 clarifying case-plan requirements; amending s.
30 39.602, F.S., relating to case planning for a
31 child in out-of-home care; amending s. 39.603,

Bill No. CS for CS for SB 1666

Amendment No. ____

1 F.S.; conforming timeframes relating to court
2 approvals of case planning; amending s. 39.701,
3 F.S.; revising and clarifying timeframes
4 relating to judicial reviews; specifying that
5 notice is not required for persons present at
6 the previous hearing; providing for a parent's
7 partial compliance with the case plan;
8 requiring that certain updated documentation be
9 furnished to the court; amending s. 39.702,
10 F.S., relating to citizen review panels;
11 amending s. 39.703, F.S., relating to
12 initiation of proceedings to terminate parental
13 rights; amending s. 39.704, F.S., relating to
14 exemption from judicial review; amending s.
15 39.801, F.S., relating to procedures,
16 jurisdiction, and notice for termination of
17 parental rights; providing notice and
18 consequences regarding failure to appear at
19 advisory hearings; providing for service of
20 subpoenas by agents of the department or
21 guardian ad litem; amending s. 39.802, F.S.,
22 relating to petition for termination of
23 parental rights; amending s. 39.805, F.S.,
24 relating to answers to petition or pleadings;
25 amending s. 39.806, F.S.; revising grounds for
26 termination of parental rights; revising
27 timeframe for identification or location of
28 parent in provisions relating to termination of
29 parental rights; amending s. 39.807, F.S.,
30 relating to right to counsel for indigent
31 parents; revising an exclusion; revising

Bill No. CS for CS for SB 1666

Amendment No. ____

1 timeframe for provision of certain reports to
2 all parties; amending s. 39.808, F.S., relating
3 to advisory hearing and pretrial status
4 conference; amending s. 39.811, F.S., relating
5 to powers and order of disposition; amending s.
6 39.814, F.S., relating to oaths, records, and
7 confidential information; amending s. 39.815,
8 F.S., relating to appeal; amending s. 39.822,
9 F.S., relating to appointment of guardian ad
10 litem for abused, abandoned, or neglected
11 child; specifying timeframe for provision of
12 reports to all parties; amending ss. 63.0427
13 and 419.001, F.S.; conforming cross references;
14 amending s. 921.0024, F.S.; requiring a
15 sentencing multiplier to be applied when
16 domestic violence is committed in the presence
17 of a minor child; amending s. 784.046, F.S.;
18 revising provisions relating to petition for
19 injunction for protection against repeat
20 violence; amending s. 901.15, F.S.; providing a
21 preferred arrest policy in the criminal
22 investigation of child abuse; providing
23 immunity for law enforcement officers for such
24 arrests; amending ss. 20.165, 570.073, 741.29,
25 and 943.1702, F.S.; correcting cross
26 references; providing an effective date.

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